

# EXHIBIT A

Corrected TRO

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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

TGP Communications, LLC, d/b/a The  
Gateway Pundit, a Missouri limited liability  
company; and Jordan Conradson, an  
individual,

Plaintiffs,

v.

Jack Sellers, Thomas Galvin, Bill Gates,  
Clint Hickman, and Steve Gallardo, in their  
respective official capacities as members of  
the Maricopa County Board of Supervisors;  
Stephen Richer, in his official capacity as

Case No. 2:22-cv-01925-JJT

**CORRECTED<sup>1</sup> EMERGENCY  
EX PARTE MOTION FOR A  
TEMPORARY RESTRAINING  
ORDER**

<sup>1</sup> Corrected only as to the caption of this document.

1 the Maricopa County Recorder; Rey  
2 Valenzuela and Scott Jarrett, in their official  
3 capacities as Maricopa County Election  
4 Directors; and Megan Gilbertson and  
5 Marcus Milam, in their official capacities as  
6 Maricopa County Communications  
7 Officers,

Defendants.

**EMERGENCY EX PARTE**

**MOTION FOR A TEMPORARY RESTRAINING ORDER**

8 TGP Communications, LLC, d/b/a The Gateway Pundit (“TGP”) and Jordan  
9 Conradson (“Conradson”) (together, “Plaintiffs”) files this Emergency Ex Parte Motion for  
10 a Temporary Restraining Order, seeking to restrain Defendants Jack Sellers, Thomas  
11 Galvin, Bill Gates, Clint Hickman, and Steve Gallardo, in their respective official  
12 capacities as members of the Maricopa County Board of Supervisors; Stephen Richer, in  
13 his official capacity as the Maricopa County Recorder; Rey Valenzuela and Scott Jarrett,  
14 in their official capacities as Maricopa County Election Directors; and Megan Gilbertson  
15 and Marcus Milam, in their official capacities as Maricopa County Communications  
16 Officers (“Defendants”) from denying the rights guaranteed to Plaintiffs by the First  
17 Amendment of the United States Constitution.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**1.0 Introduction**

19 Open government has been a hallmark of our democracy since our nation's  
20 founding. As James Madison wrote in 1822, “a popular Government, without popular  
21 information, or the means of acquiring it, is but a Prologue to a Farce or a Tragedy; or,  
22 perhaps both.” *Leigh v. Salazar*, 677 F.3d 892, 897 (9th Cir 2012) (citing 9 Writings of  
23 James Madison 103 (G. Hunt ed. 1910)).  
24  
25

1 This case presents an urgent emergency. The nation's eyes are fixed on Maricopa  
 2 County due to irregularities in handling the 2022 midterm elections. On election day In  
 3 Maricopa County, an estimated 30% of voting locations experienced issues where their  
 4 voting machines malfunctioned.<sup>2</sup> And here we are, three days after the election, with votes  
 5 still being tallied at a seemingly glacial pace.

6 Understandably, the nation is fixated on this election. This is a matter of great  
 7 national importance, and its importance stretches far beyond Arizona's borders.

8 It is no surprise that there is great skepticism on one side of the political divide and  
 9 there is unqualified trust on the other. Society has degraded to the point that many  
 10 Americans are skeptical of the good faith, the competence, and the bias of governmental  
 11 institutions. However, this skepticism almost always comes down as a "Red" versus "Blue"  
 12 issue. If a Republican makes a claim, one can expect "Team Blue" to scream at the top of  
 13 their lungs that she must be corrupt, or worse. If a Democrat does the same, the "Red Team"  
 14 is not going to take her statement at face value. We then depend on the press, such as it is,  
 15 to inform us all so that we can at least hope to know what in tarnation is going on.

16 Our press is no less divided than our electorate. Our press has descended into a  
 17 morass of competing partisan reporting that is no longer something Edward R. Murrow or  
 18 Ben Bradlee would respect. Nevertheless, when the Free Press clause was placed in the  
 19 Constitution, our national press was possibly even more divided and biased than it is today.

20 By the time the infant United States was taking its first furtive steps as a beacon of  
 21 liberty, its press operated in a system of political patronage from the parties. This was  
 22 known as "The Party Press Era." Newspapers publishers would cozy up to politicians,

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23 <sup>2</sup> See, e.g., Sasha Hupka, "Early glitches with Maricopa County election machines  
 24 frustrate voters," AZCentral (Nov. 8, 2022), available at:  
 25 <<https://www.azcentral.com/story/news/politics/elections/2022/11/08/arizona-election-problems-maricopa-county-tabulator-issues/8302133001/>>.



1 endorse their candidates, promote their agendas, and then receive baksheesh in the form of  
2 financial support, prestige, and power. Anyone with any degree of media literacy today  
3 would be unlikely to say that we have not returned to our roots. The only difference is that  
4 today, the mainstream press operates much like the Party Press of the early Republic, but  
5 they try and perpetrate the fiction that it is not so.

6       Meanwhile, if a tree falls in the forest and there is nobody there to hear it, everyone  
7 will still tell the public what it sounded like and what it means. National Public Radio will  
8 report that it happened because Donald Trump caused it with a post on Truth Social. This  
9 claim would be followed by a two hour exposé on how trees in forests are racist. Fox News  
10 will report the same story, but suggest that the tree fell because Hillary Clinton was trying  
11 to kill a frog who had information about her being on Epstein's island. Who are we to  
12 believe? We are all free to make that choice, but the greater the diversity of voices in the  
13 marketplace of ideas, the better informed the public.

14       The Gateway Pundit is a news and opinion publication of national renown. Founded  
15 Publisher Jim Hoft in 2004, The Gateway Pundit has grown into one of the largest and  
16 most highly read political blogs in the nation. The Gateway Pundit is ranked as one of the  
17 top 150 websites in the US, with an average of 2.5 million daily readers. *See* Declaration  
18 of James Hoft at ¶ 1. It is considered by many to be a “conservative” publication, as its  
19 editorial staff does tend to the libertarian/conservative side of things. In a national media  
20 landscape where conservatives are an endangered species, this is a relative rarity. However,  
21 the Gateway Pundit is no less a legitimate journalism organization than the New York  
22 Times – which famously lied to the American public, at the behest of those who wanted  
23 war in the Middle East, to push the agenda that there were WMDs in Iraq and that dutifully  
24 reported on Trump's “Russian Collusion.” CNN lied about the “Covington Kids.” Rolling  
25

Stone lied about “A Rape on Campus.” These were knowing lies, not mere mistakes, but Maricopa would certainly permit a New York Times, CNN, or Rolling Stone reporter to cover their actions – because these are politically loyal “Party Papers” as it were. However, the Defendants have decided, using unfettered discretion, to exclude the Gateway Pundit and its reporters from covering the election debacle. The stated reason was:

Thank you for applying for a Maricopa County Press Pass. This email is to notify you that you have been denied a press credential based on the following criteria which is listed on Maricopa.gov:

\* #4: You (a) do not avoid real or perceived conflicts of interest and (b) are not free of associations that would compromise journalistic integrity or damage credibility. Therefore, you are not a bona fide correspondent of repute in your profession.

If you would like to appeal this decision, please reply to this email stating the reasons it should be reconsidered.

Further, any press conference about the 2022 Election will be streamed to a Maricopa County YouTube channel and you are welcome to view it.

Thank you,

Elections Command Center

See **Exhibit 1**, Emailed Denial & Appeal.

These criteria are unconstitutionally vague and reasonable minds could say the same things about the New York Times or CNN or National Public Radio without stretching a bit. Maricopa’s decision to exclude the Gateway Pundit is entirely viewpoint based. And thus, both facially and as applied, this regulation must be struck down. With the exigent circumstance of a “hot news” situation, the Gateway Pundit must be permitted to attend press conferences, immediately.

## 2.0 Legal Standard

A party seeking a preliminary injunction or temporary restraining order must meet one of two tests: traditional or alternative. *See Stanley v. Univ. of S. Cal.*, 13 F.3d 1313, 1319 (9th Cir. 1994). Under the traditional test, a plaintiff must show: (1) he will probably

1 prevail on the merits; (2) he will suffer irreparable injury if injunctive relief is not granted;  
2 (3) the defendant will not be equitably harmed more than the plaintiff is helped by the  
3 injunction; and (4) granting the injunction is in the public interest. *See id.* Alternatively, a  
4 court may issue a preliminary injunction if the plaintiff shows either (1) a combination of  
5 probable success on the merits and the possibility of irreparable injury, or (2) the existence  
6 of serious questions going to the merits and that the balance of hardships tips sharply in its  
7 favor. *See FDIC v. Garner*, 125 F.3d 1272, 1277 (9th Cir. 1997); *Metro Pub. Ltd. v. San*  
8 *Jose Mercury News*, 987 F.2d 637, 639 (9th Cir. 1993). “The injury or threat of injury must  
9 be both ‘real and immediate,’ not ‘conjectural’ or ‘hypothetical.’” *City of Los Angeles v.*  
10 *Lyons*, 461 U.S. 95, 102 (1983).

11 Under these standards injunctive relief is appropriate when either of these two tests  
12 are met. These are not two separate tests, but “merely extremes of a single continuum.”  
13 *Topanga Press, Inc. v. City of Los Angeles*, 989 F.2d 1524, 1528 (9th Cir. 1993). This means  
14 that if the balance of hardships strongly favors the plaintiff, he does not need to make as  
15 strong a showing of success on the merits, and vice versa. *See Walczak v. EPL Prolong,*  
16 *Inc.*, 198 F.3d 725, 731 (9th Cir. 1999).

17 When there is a violation of a constitutional right, no further showing of irreparable  
18 injury is required. *See Associate General Contractors of California v. Coalition for*  
19 *Economic Equity*, 950 F.2d 1401, 1410 (9th Cir. 1991). In fact, the first prong of the  
20 “traditional” test is generally outcome determinative in First Amendment cases, as a chill  
21 to one’s First Amendment rights is irreparable harm, a governmental entity can have no  
22 legitimate interest in enforcing an unconstitutional regulation, and the public is not helped  
23 by enforcing such a regulation. *See Thoms v. Maricopa Cty. Cmty. Coll. Dist.*, No. CV-21-  
24 01781-PHX-SPL, 2021 U.S. Dist. LEXIS 214822, \*35-39 (D. Ariz. Nov. 5, 2021).

### 3.0 Argument

The government's actions in this case are the government requiring a permit or a license to gather news. This has never been permissible in America. In fact, such schemes fell out of favor even before the Revolution. "Licensing of the press was never effective in the American colonies. The last attempt to enforce this common law right of the crown in the American colonies failed in 1725." *Chicago v. Tribune Co.*, 307 Ill. 595, 599 (Ill. 1923). Whether because the colonists would not accept press licensing or by the imposition of our Constitution after the Revolution, there is not, nor should there ever be, press licensing in America. If there were and the Courts did not step in, it "would make it easy for dictators to control their subjects." *Grosjean v. American Press Co.*, 297 U.S. 233, 240 (1936) (discussing press licensing through taxation). Maricopa County appears to believe that it has found a loophole – while it may not restrain opposition media from *publishing* by using a licensing scheme, it has decided that it will impede any opposition media's attempts to serve as a watchdog on government by licensing *newsgathering*.

This court must remind Maricopa County that when Arizona joined the union in 1912, it joined not *despite* this long tradition of embracing the freedom of the press, but *because* of it. Arizona made certain that even if the Federal Constitution ever changed, its state constitution would continue to protect freedom of the press. "Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right." Ariz. Const. Art. 2, § 6.

This Honorable Court should grant the Plaintiff the right to gather the news, no matter whether the Maricopa County government likes their viewpoint or their politics or not. The regulations are unconstitutional, both facially and as applied.

### 3.1 Newsgathering and the First Amendment

The First Amendment protects newsgathering. *United States v. Sherman*, 581 F.2d 1358, 1361 (9th Cir. 1978); *see also Branzburg v. Hayes*, 408 U.S. 665, 681, 6 (1972) (“[W]ithout some protection for seeking out the news, freedom of the press could be eviscerated.”); *Cable News Network, Inc. v. Am. Broad. Cos.*, 518 F. Supp. 1238, 1244 (N.D. Ga. 1981) (“[T]he rights guaranteed and protected by the First Amendment include a right of access to news or information concerning the operations and activities of government.”)

The media serves an essential role as “surrogates for the public” when it reports on government affairs. *Richmond Newspapers v. Virginia*, 448 U.S. 555, 573 (1980); *see also Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 490-91 (1975) (“[I]n a society in which each individual has but limited time and resources with which to observe at first hand the operations of his government, he relies necessarily upon the press to bring to him in convenient form the facts of those operations.”). “[A]rbitrary or content-based criteria for press pass issuance are prohibited under the first amendment.” *Sherrill v. Knight*, 569 F.2d 124, 129 (D.C. Cir. 1977).

In *Consumers Union v. Periodical Correspondents' Assoc.*, 365 F. Supp. 18, 22-23 (D.D.C. 1973), *rev'd on other grounds*, 169 U.S. App. D.C. 370, 515 F.2d 1341 (D.C. Cir. 1975), *cert. denied*, 423 U.S. 1051 (1976), the court held it was unconstitutional for the government to discriminate against Consumer Reports on grounds that it was “owned and operated” by a “self-proclaimed advocate of consumer interests.” The court further stated: “A free press is undermined if the access of certain reporters to facts relating to the public's business is limited merely because they advocate a particular viewpoint. This is a dangerous and self-defeating doctrine.” *Consumers Union*, 365 F. Supp. at 25.

1 The government may not exclude a publication because of their viewpoint or  
 2 because their readership consists mainly of people who vote differently than they do. *See*  
 3 *Quad-City Cmty News Serv. v. Jebens*, 334 F. Supp. 8, 17 (S.D. Iowa 1971) (stating “any  
 4 classification which serves to penalize or restrain the exercise of a First Amendment right,  
 5 unless shown to be necessary to promote a compelling governmental interest, is  
 6 unconstitutional”). “[O]nce there is a public function, public comment, and participation  
 7 by some of the media, the First Amendment requires equal access to all of the media, or  
 8 the rights of the First Amendment would no longer be tenable.” *Am. Broad. Cos. v. Cuomo*,  
 9 570 F.2d 1080, 1083 (2d Cir. 1977). “[A]rbitrary or content-based criteria for press pass  
 10 issuance are prohibited under the first amendment.” *Sherrill v. Knight*, 186 U.S. App. D.C.  
 11 293, 569 F.2d 124, 129 (1977) (citing *Branzburg v. Hayes*, 408 U.S. 665, 681, 707 (1972)).

12 The government, in this case, appears to try and save its decision by offering the  
 13 Plaintiffs to watch streaming video of press conferences. However, this does not purge  
 14 their actions of their unconstitutional sins. The court in *Consumers Union* stated:

15 While it is perfectly true that reporters do not have an unrestricted right to go  
 16 where they please in search of news, ... the elimination of some reporters  
 17 from an area which has been voluntarily opened to other reporters for the  
 18 purpose of news gathering presents a wholly different situation. Access to  
 news, if unreasonably or arbitrarily denied ..., constitutes a direct limitation  
 upon the content of news.

19 *Consumers Union*, 365 F. Supp. at 25-26 (citations omitted)

20 “[A]ll representatives of news organizations must not only be given equal access,  
 21 but within reasonable limits, access with equal convenience to official news sources.”  
 22 *Westinghouse Broad. Co. Inc. v. Dukakis*, 409 F. Supp. 895, 896 (D. Mass. 1976). In a  
 23 similar case, the government sought to segregate media into different areas. But even that  
 24 was not permissible. *See United Teachers of Dade v. Stierheim*, 213 F. Supp. 2d 1368,  
 25 1374 (S.D. Fla. 2002) “[T]o the extent that entry into the ‘general-circulation media’ press

room provides media representatives with additional access to information, Plaintiffs' First Amendment rights are being violated.” *Id.*

### 3.2 The Regulations are Unconstitutionally Vague

A Policy is impermissibly vague if (1) “it fails to provide people of ordinary intelligence a reasonable opportunity to understand what conduct it prohibits” or (2) “it authorizes or even encourages arbitrary and discriminatory enforcement.” *Hill v. Colorado*, 530 U.S. 703, 732 (2000). Out of concern or arbitrary suppression of free speech, “the Constitution requires a ‘greater degree of specificity’ in cases involving First Amendment rights.” *Nat’l Org. for Marriage v. McKee*, 649 F.3d 34, 62 (1st Cir. 2011). “The vagueness of such a regulation raises special First Amendment concerns because of the obvious chilling effect on speech.” *Reno v. ACLU*, 521 U.S. 844, 872 (1997).

Defendants denied Plaintiffs’ press credentials using two unconstitutionally vague criteria. First, the requirement that journalists “avoid real or perceived conflicts of interest,” and second, that the journalists be “free of associations that would compromise journalistic integrity or damage credibility.” See **Exhibit 1**, Denial Email.

As to the first criteria, conflicts of interests, it is unclear what exactly is prohibited. Assuming one can suitably define what Defendants mean by a journalist having a “conflict of interest,” it is impossible to determine how a journalist may avoid being *perceived* to have a conflict of interest. Does giving positive coverage to one candidate or party cause a journalist to be perceived as having a conflict of interest, even if none exists? Can reporting critically on an elected official be perceived as having a conflict of interest in favor of their opponent? Moreover, it is not even clear what an actual conflict of interest could be for a journalist. Is appearing to favor a political party a conflict of interest? If that is the case, and the rule were applied evenly, Maricopa’s press conferences would likely be given to



an empty room, or one where only a few high school journalists, still untainted, would be permitted to participate. A person of “ordinary intelligence” would not be able to determine what conduct is actually prohibited by Defendants’ conflict of interest criteria. This unconstitutional vagueness lends itself to arbitrary enforcement, as has happened here.

Second, as to Defendants’ “free of associations” requirement, it is likewise unclear what conduct is prohibited. What does that even mean? What sort of associations would “compromise journalistic integrity or damage credibility?” Would being a member of a political party do so? Would voting for a certain candidate do so? Attending a candidate rally? Making a political donation? This regulation feels a lot like “Constitutional Violation Inception.” To violate the Free Press clause, they have chosen to use the exercise of the Free Association clause.

### 3.3 The Process is void of Due Process

Not only are the standards employed by Maricopa County vague and unworkable, the decision made in a star chamber, with no opportunity to be heard, no articulated standards, and no opportunity for meaningful appeal or review.

In a very closely analogous case, a court ruled that plaintiff had a likelihood of success on the merits for a due process claim because the government failed “to memorialize an explicit and meaningful standard governing its denial of press conference access.” *Alaska Landmine, LLC v. Dunleavy*, 514 F. Supp. 3d 1123, 1134 (D. Alaska 2021). The court further noted that an “absence of any formal process, policy, or procedure mak[ing] judicial review [of a First Amendment claim] difficult ... [] highlights the importance of due process as the vehicle by which First Amendment rights are protected.” *Id.* To bring a claim under the Due Process Clause, a plaintiff must show: “(1) a violation of rights protected by the Constitution or created by federal statute, (2) proximately caused



(3) by conduct of a person (4) acting under color of state law.” *Crompton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991) (citation omitted).

Here, the government deprived Plaintiff of the right to gather the news without any due process. There is a protected interest in press access to government press conferences. In *Sherrill*, 569 F.2d at 130 the D.C. Cir. held that this access, for a news correspondent and his parent publication, “*undoubtedly* qualifies as liberty which may not be denied without due process of law under the [Fifth Amendment].” (emphasis added). Further, this is not just a right that benefits the particular plaintiffs – but the public at large. “Not only newsmen and the publications for which they write, but also the public at large have an interest protected by the [First Amendment] in assuring that ... individual newsmen not be arbitrarily excluded from sources of information”). *Id* at 129.

Usually in cases where there has been a deprivation of due process, there is an examination of the adequacy of the process. However, here the analysis is easier, since there was no process at all. A bureaucrat decided that The Gateway Pundit was not to their liking and evicted them from the Fourth Estate. Then, to make matters worse, they even continued to push them away from anywhere that they could meaningfully participate in news gathering at all. *See* Complaint at ¶ 33.

### **3.4 Defendants’ Regulations and Actions are Content-Based and Viewpoint-Based and act as an Impermissible Licensing of Newsgathering**

Content-based and viewpoint-based restrictions “are presumptively unconstitutional and may be justified only if the government proves that they are narrowly tailored to serve compelling state interests.” *Reed v. Town of Gilbert, Ariz.*, 135 S. Ct. 2218, 2226 (2015). Our Constitutional alloy was forged in the fires of mistrust of government power. Therefore, the First Amendment is designed as a shield against government actors who would burden disfavored viewpoints. *Citizens United v. Fed. Election Comm’n*, 558 U.S.

310, 340 (2010). The point of the First Amendment is to deprive the government of the power to disfavor a particular message, ideas, subject matter, or content. *Consol. Edison Co. v. Pub. Serv. Comm’n*, 447 U.S. 530, 538 (1980). To weaken this protection would be to allow the government to control the “search for political truth.” *Id.* Content based restrictions “completely undercut the profound national commitment to the principle that debate on public issues should be uninhibited, robust, and [wide]-open.” *Police Dep’t of City of Chicago v. Mosley*, 408 U.S. 92, 96 (1972) (citation and quotation marks omitted).

The government may not condition the exercise of First Amendment protected rights on “obtaining a license or permit from a government official in that official’s boundless discretion.” *Forsyth Cty. v. Nationalist Movement*, 505 U.S. 123, 131 (1992) (deciding whether an official has unbridled discretion in setting permit fee for public speaking events, parades, or assemblies); *Se. Promotions v. Conrad*, 420 U.S. 546 (1975) (addressing whether municipal board charged with leasing city auditorium had unbridled discretion); *Saia v. People of N.Y.*, 334 U.S. 558, 559-60 (1948) (addressing whether licensing use of amplifiers gave police chief unfettered discretion); *Am. Entert. v. City of Rocky Mount*, 888 F.3d 707, 720 (4th Cir. 2018) (deciding licensing scheme for sexually oriented businesses gave licensing official unfettered discretion). Even Nazis marching, theatrical entertainment, or even nude dancing can not be subject to unfettered government discretion. Certainly the Freedom of the Press deserves at least as much respect as the freedom to perform lap dances.

In this case, the government created a limited public forum where the press may gather to question and observe government officials. *See Pleasant Grove City v. Summum*, 555 U.S. 460, 470 (2009) (defining a limited public forum as one “that is limited to use by certain groups or dedicated solely to the discussion of certain subjects”). However, the

1 government limited access to that forum using a vague and unworkable standard, which  
2 they employ using unfettered discretion. In a public forum, “there is broad agreement that  
3 ... investing governmental officials with boundless discretion over access to the forum  
4 violates the First Amendment.” *Child Evangelism Fellowship of Md., Inc. v. Montgomery*  
5 *Cnty. Pub. Sch.*, 457 F.3d 376, 386 (4th Cir. 2006)); *Kaahumanu v. Hawaii*, 682 F.3d 789,  
6 806 (9th Cir. 2012).

7 “For this reason, even in cases involving nonpublic or limited public forums, a  
8 policy ... that permits officials to deny access for any reason, or that does not provide  
9 sufficient criteria to prevent viewpoint discrimination, generally will not survive  
10 constitutional scrutiny.” *Id.* at 387. For time, place, and manner restrictions, “[a]s an  
11 application of the requirement that restrictions be narrowly tailored, a law cannot condition  
12 the free exercise of First Amendment rights on the ‘unbridled discretion’ of government  
13 officials.” *Gaudiya Vaishnava Soc. v. San Francisco*, 952 F.2d 1059, 1065-67 (9th Cir.  
14 1991) (finding unconstitutional ordinance requiring individuals to obtain a “peddling  
15 permit” to sell merchandise that was “inextricably intertwined” with fully protected speech  
16 when the chief of police had discretion to deny issuance of a permit and the ordinance  
17 provided no specific grounds for granting or denying the permit and placed no explicit  
18 limits on the chief’s discretion). And in a case involving a parade ordinance that allowed  
19 the chief of police to move marchers onto sidewalks “in the interest of vehicular or  
20 pedestrian safety,” the Ninth Circuit found that this gave an unconstitutional degree of  
21 discretion to the government because of its breadth and the fact that it did not require  
22 officials to articulate their reasons for denying permission to march in the streets, as well  
23 as an absence of any mechanism for direct administrative or judicial review. *Seattle*

1 *Affiliate of the October 22<sup>nd</sup> Coalition To Stop Police Brutality, Repression & the*  
 2 *Criminalization of a Generation v. City of Seattle*, 550 F.3d 788, 799-802 (9th Cir. 2008).

3 “Without standards governing the exercise of discretion, a government official may  
 4 decide who may speak and who may not based upon the content of the speech or view-  
 5 point of the speaker.” *City of Lakewood v. Plain Dealer Publ'g Co.*, 486 U.S. 750, 763-64  
 6 (1988). A government regulation violates the First Amendment “[w]here the licensing  
 7 official enjoys unduly broad discretion in determining whether to grant or deny a permit.”  
 8 *World Wide Rush, LLC v. City of L.A.*, No. CV 07-238 ABC (JWJx), 2007 U.S. Dist.  
 9 LEXIS 105249, \*35 (C.D. Cal. July 23, 2007) (quoting *G.K. Ltd. Travel v. City of Lake*  
 10 *Oswego*, 436 F.3d 1064, 1082 (9th Cir. 2006). The court in *World Wide Rush* enumerated  
 11 “three considerations ... to determine whether an ordinance confers discretion in violation  
 12 of the First Amendment”:

13 (1) whether the ordinance contains “reasonably specific” criteria on which a  
 14 denial may rest; (2) whether the ordinance outlines objective factors to  
 15 consider in denying an application under the “reasonably specific” criteria;  
 16 and (3) whether the ordinance requires officials to “state the reasons for his  
 17 or her decision to either grant or deny a permit so as to facilitate effective  
 18 review of the official’s determination,” which allows the determination to be  
 19 “enforceable on review.”

20 *Id.* at 35-36.

21 There is no reasonably specific criterion, nor are there objective factors, nor has the  
 22 Defendant in any way stated the reasons for the decision to allow for effective review. This  
 23 is unfettered discretion, and the government used this unfettered discretion to discriminate  
 24 against the Gateway Pundit because they do not want to be challenged by the Gateway  
 25 Pundit’s style of journalism – a style that does not uncritically act as a stenographer for the  
 government narrative.

### 3.5 Equal Protection

The Equal Protection Clause provides that no state shall deny to any person within its jurisdiction equal protection of the laws. *See* U.S. Const. *amend. XIV*, § 1. In other words, “[p]ursuant to the Equal Protection Clause, the government must treat all similarly situated persons alike.” *Martinez v. Clark County*, 846 F. Supp. 2d 1131, 1135 (D. Nev. 2012). A plaintiff asserts a valid equal protection argument if it demonstrates that “a group was singled out for unequal treatment on the basis of religion.” *Carey v. Piphus*, 435 U.S. 247, 248 (1978). If the law that the plaintiff challenges burdens a fundamental right or makes a distinction based on a suspect classification, the Court should employ strict scrutiny review. *See OSU Student Alliance v. Ray*, 699 F.3d 1053, 1067 (9th Cir. 2012). Alternatively, if the law does not burden a fundamental right or target a suspect classification, it is subject to rational basis review. *See id.*

“[U]nder the Equal Protection Clause, not to mention the First Amendment itself, government may not grant the use of a forum to people whose views it finds acceptable, but deny use to those wishing to express less favored or more controversial views.” *Police Dep’t of Chicago v. Mosley*, 408 U.S. 92, 96 (1972). When brought together with claims for violation of one’s First Amendment freedom of speech, an equal protection claim typically shares the same analysis as the First Amendment claim. *Ray*, 699 F.3d at 1067.

Here, Plaintiffs were selectively treated – they were singled out for denial of a press pass specifically for the content and viewpoint of their speech. Because, as discussed above, if the standards were equally applied, the Press Conferences would be attended by no more than a Mesa high school reporter and two tumbleweeds.

### 3.6 Irreparable harm

The “loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

1 The freedom of the press does not only serve the press itself but exists to serve the public.  
2 *Alaska Landmine, LLC v. Dunleavy*, 514 F. Supp. 3d 1123, 1135 (“the foundational  
3 principle of the press clause of the First Amendment is that the media serves the public in  
4 offering both governmental transparency and information to the citizenry.”) Conversely,  
5 there is a public harm in only allowing “approved” press to cover government affairs, and  
6 the way the government has acted has a high probability of undermining confidence that  
7 the election is being tallied in a fair and above-board manner. Permitting the “opposition”  
8 press, press that would be critical of the government, will serve the government as well. If  
9 the press is excluded because the government thinks that its viewpoint is troubling, will  
10 this not stoke conspiracy theories and mistrust? The injunction will not only not burden the  
11 government, but it will also serve the government. “Without an unfettered press, citizens  
12 would be far less able to make informed political, social, and economic choices. But the  
13 press’ function as a vital source of information is weakened whenever the ability of  
14 journalists to gather news is impaired.” *Zerilli v. Smith*, 656 F.2d 705, 711 (D.C. Cir. 1981).

15 Maricopa’s bureau of elections certainly does look good right now. Arizona’s  
16 secretary of state is a gubernatorial candidate. A county that was predicted to lean heavily  
17 toward her opponent had massive failures in its systems on election day. Does this establish  
18 that something dishonest happened? Of course not. But, what would have been different if  
19 there was something dishonest afoot? Perhaps if there were something dishonest going on,  
20 the government would seek to exclude the press.

21 “When wrongdoing is underway, officials have great incentive to blindfold the  
22 watchful eyes of the Fourth Estate.” *Leigh v. Salazar*, 677 F.3d 892, 900 (9th Cir. 2012)  
23 (citing Timothy B. Dyk, *Newsgathering, Press Access, and the First Amendment*, 44 Stan.  
24 L. Rev. 927, 949 (1992) (“[W]hen the government announces it is excluding the press for  
25

reasons such as administrative convenience, preservation of evidence, or protection of reporters' safety, its real motive may be to prevent the gathering of information about government abuses or incompetence.""). And when the government restricts a publication because of its viewpoint, the government is trying to blind the critical press while allowing in the friendly press.

The Defendants will claim they are behaving honestly and unbiasedly in their apparent re-enactment of Florida in the 2000 election. However, if they are so honest, they should have no fear of any eyes and ears in the room, no matter how unfriendly. As a great jurist from neighboring Nevada said, when deciding a press access issue, "What better way to demonstrate to the public that its courts are fair and just than to say to the public, 'come and view the proceedings yourself and judge for yourself'?" *Suen v. Las Vegas Sands, Inc.*, Case No. A493744-C (Dist. Ct., Apr. 16, 2013). Indeed, if the Defendants have nothing to hide, then what better way to show the world that Maricopa County is competent and fair than to let everyone, regardless of viewpoint, see for themselves?

That is the gravamen of the injunctive relief sought.

#### **4.0 Conclusion**

Plaintiffs ask this Court to enter an immediate emergency injunction as requested.

Dated: November 14, 2022.

Respectfully submitted,

/s/ Marc J. Randazza

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# EXHIBIT B

MC's Response to Corrected TRO

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Stephen Richer, Rey Valenzuela, Scott Jarrett,  
Megan Gilbertson, and Marcus Milam*

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**

TGP Communications, LLC, d/b/a The  
Gateway Pundit, a Missouri limited  
liability company; and Jordan  
Conradson, an individual,

Plaintiffs,

v.

Jack Sellers, Thomas Galvin, Bill Gates,  
Clint Hickman, and Steve Gallardo, in  
their respective official capacities as  
members of the Maricopa County Board  
of Supervisors; Stephen Richer, in his  
official capacity as the Maricopa County

NO. CV-22-01925-JJT

**RESPONSE TO CORRECTED  
EMERGENCY *EX PARTE* MOTION FOR  
A TEMPORARY RESTRAINING ORDER**

1 Recorder; Rey Valenzuela and Scott  
2 Jarrett, in their official capacities as  
3 Maricopa County Election Directors;  
4 and Megan Gilbertson and Marcus  
5 Milam, in their official capacities as  
6 Maricopa County Communications  
7 Officers,

8  
9 Defendants.

10 Defendants Jack Sellers, Thomas Galvin, Bill Gates, Clint Hickman, and Steve  
11 Gallardo (in their official capacities as members of the Maricopa County Board of  
12 Supervisors), Stephen Richer (Maricopa County Recorder), Rey Valenzuela and Scott  
13 Jarrett (Maricopa County Election Directors) and Megan Gilbertson and Marcus Milam  
14 (Maricopa County Communications Officers) (together, where appropriate, the “County”),  
15 hereby respond to Plaintiffs’ Corrected Emergency *Ex Parte* Motion For A Temporary  
16 Restraining Order, as follows:

17 **I. BACKGROUND**

18 This case is not about a government entity imposing a restraint on Plaintiffs’ freedom  
19 to report on the 2022 election. Nor is it about limiting Plaintiffs’ access to view and report  
20 on press conferences held as part of the County’s efforts to provide timely and accurate  
21 information to the public. Instead, it involves the County’s considered judgment about the  
22 best way to allocate its limited resources to make accurate information available to voters  
23 in Maricopa County and throughout Arizona. Plaintiffs’ eleventh-hour demand to be  
24 allowed physical access to a non-public County facility does not warrant the mandatory  
25 injunctive relief that Plaintiffs are asking this Court to impose.

26 Out of a concern for logistical difficulties and security, Maricopa County requires an  
27 official Press Pass for members of the press to attend news conferences at, or to otherwise  
28 enter, the Maricopa County Tabulation and Election Center (“MCTEC”) and the tenth floor  
of the County Administration building to conduct interviews, take photos, and/or video.  
This is important not only because of the limited amount of space within the large room  
where press appearances and interviews are conducted, but also because of security

1 concerns: one or more of the Maricopa County Board of Supervisors, the County Recorder,  
2 other County officials, and Election Department employees are more easily accessible to  
3 members of the press than they are to the public at large.

4 This concern for safety is legitimate. Following the November 3, 2020, general  
5 election, large crowds of protesters gathered at MCTEC in response to former president  
6 Trump's and others' claims that the election had been "stolen." On the night of Wednesday,  
7 November 4, several hundred protesters attempted to storm MCTEC and enter the building  
8 while Elections Department employees were present tabulating ballots. *See, e.g.,* KTAR  
9 News, "Protesters gather outside Maricopa County Elections Department," Nov. 5, 2020,  
10 available at [https://ktar.com/story/3678840/protesters-gather-outside-maricopa-county-](https://ktar.com/story/3678840/protesters-gather-outside-maricopa-county-elections-department/)  
11 [elections-department/](https://ktar.com/story/3678840/protesters-gather-outside-maricopa-county-elections-department/). Following the public unrest that occurred at the National Capitol on  
12 January 6, 2021, large crowds of pro-Trump supporters gathered at the Arizona Capitol and  
13 erected a guillotine, promising "holy hell" to those who had "stolen" the election from him.  
14 *See, e.g.,* Madeline Ackley, "'No more political options': Trump rally at Capitol highlights  
15 GOP fractures," AZMIRROR, January 7, 2021, available at  
16 [https://www.azmirror.com/2021/01/07/no-more-political-options-trump-rally-at-capitol-](https://www.azmirror.com/2021/01/07/no-more-political-options-trump-rally-at-capitol-highlights-gop-fractures/)  
17 [highlights-gop-fractures/](https://www.azmirror.com/2021/01/07/no-more-political-options-trump-rally-at-capitol-highlights-gop-fractures/).

18 These types of protests, as well as the multitude of death threats that the Defendants  
19 and other employees of the Maricopa County Elections Department have received since the  
20 2020 election, are good cause for any election department to be concerned about security.  
21 In fact, permanent fencing was placed around MCTEC in early 2021 and additional  
22 temporary fencing was installed at the direction of the Maricopa County Sheriff's Office  
23 (MCSO) after the primary election in August because of people taking video of voters and  
24 Election Department employees and threatening their access to MCTEC.

25 The criteria for determining whether an applicant qualifies as a "Member of the  
26 Press," is clearly set out on the County's website.<sup>1</sup> The criteria is as follows:

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27  
28 <sup>1</sup> See attached Exhibit 1 or the following link:

1. Is the person requesting press credentials employed by or affiliated with an organization whose principal business is news dissemination?
2. Does the parent news organization meet the following criteria?
  - a. It has published news continuously for at least 18 months, and;
  - b. It has a periodical publication component or an established television or radio presence.
3. Is the petitioner a paid or full-time correspondent, or if not, is acting on behalf of a student-run news organization affiliated with an Arizona high school, university, or college?
4. Is the petitioner or its employing organization engaged in any lobbying, paid advocacy, advertising, publicity, or promotion work for any individual, political party, corporation, or organization?
5. Is the petitioner a bona fide correspondent of repute in their profession, and do they and their employing organization exhibit the following characteristics?
  - a. Both avoid real or perceived conflicts of interest;
  - b. Both are free of associations that would compromise journalistic integrity or damage credibility;
  - c. Both decline compensation, favors, special treatment, secondary employment, or political involvement where doing so would compromise journalistic integrity; and
  - d. Both resist pressures from advertisers, donors, or any other special interests to influence coverage.

The same criteria were approved in—and drawn directly from—a Seventh Circuit Court of Appeals opinion.

The first three of the criteria listed in the memorandum are reasonably related to the viewpoint-neutral goal of increasing the journalistic impact of the Governor's messages by including media that focus primarily on news dissemination, have some longevity in the business, and possess the ability to craft newsworthy stories. The list prioritizes access by journalists whose reporting will reach wider audiences, while also allowing room for smaller media outlets (such as tribal publications). The criteria listed in numbers four and five of the memorandum are reasonably related to the viewpoint-

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<https://www.maricopa.gov/5856/Maricopa-County-2022-Elections-Press-Pas#criteria>.

neutral goal of increasing journalistic integrity by favoring media that avoid real or perceived conflicts of interest or entanglement with special interest groups, or those that engage in advocacy or lobbying. Similar standards are also used by other governmental bodies such as the United States Congress.

*John K. MacIver Inst. for Pub. Pol’y, Inc. v. Evers*, 994 F.3d 602, 610–11 (7th Cir. 2021), cert. denied, 142 S. Ct. 711 (2021). The legal memorandum prepared by the Governor’s legal counsel that was used as an exhibit in the *Evers* case is attached hereto as Exhibit 2. The Defendants’ guidelines follow that memorandum and Seventh Circuit decision.

On September 27, 2022, Jordan Conradson, from The Gateway Pundit,<sup>2</sup> applied for a Press Pass. On the same day he submitted his application, he wrote an article in The Gateway Pundit entitled:

BREAKING: Maricopa County Create ‘Ministry Of Truth’ To Silence the Gateway Pundit – Now Requiring Official Press Pass for Media ‘To ENTER ITS FACILITIES And/Or Cover Events Related To the 2022 General Election.’<sup>3</sup>

Thus, even before he received a response to his application, he stated in an article that Maricopa County was “covering its tracks ahead of the 2022 General Election,” that the County or newly formed Elections Command Center is a “Ministry of Truth,” and that “The Gateway Pundit previously reported on these same tactics employed by the Biden Regime.” The article does not identify a single inquiry made to understand the reason behind the policy. The article simply announces the policy and takes the presumptive position that the policy was enacted to suppress opinions like those from The Gateway Pundit.

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<sup>2</sup> <https://www.thegatewaypundit.com/>

<sup>3</sup> See attached Exhibit 3 or the following link:  
<https://www.thegatewaypundit.com/2022/09/breaking-maricopa-county-creates-ministry-truth-silence-gateway-pundit-now-requiring-official-press-pass-media-enter-facilities-cover-events-related-2022-ge/>

As part of the application process, Mr. Conradson submitted three links to work examples.<sup>4</sup> Those three articles, similar to the article just mentioned, do little more than proselytize The Gateway Pundit's views. Each article germinates from a news report or press release (such as the County's announcement of Press Pass criteria). Mr. Conradson then expresses an opinion about the news report or press release and supports that opinion by referencing like-minded social media posts, prior articles by The Gateway Pundit, and allying websites that express the same viewpoints. Moreover, each article uses inflammatory and/or accusatory language, such as "Fake News Media," "globalist elitist establishment," and "highly flawed 2022 Primary Elections." And while Mr. Conradson is certainly entitled to express his opinions, his poorly sourced, researched, and reported work lacks the journalistic integrity and credibility required by the Press Pass criteria.

In addition, Mr. Conradson participates in political party events and associates with people and groups that demonstrate an inability to avoid real or perceived conflicts of interest. See attached Exhibit 7 (photo at an event with Wendy Rogers, Jeff Pedersen, David Clements, and Mr. Conradson),<sup>5</sup> Exhibits 8 and 9 (photos of participants in the Cyber Ninja audit, including Mr. Conradson),<sup>6</sup> Exhibits 10 and 11 (photos of Mr. Conradson participating in a Merissa Hamilton campaign event).

The *Society of Professional Journalists* has a code of ethics, which requires ethical journalists to abide by four key principals: (1) Seek truth and report it; (2) Minimize harm;

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<sup>4</sup> See attached Exhibits 4, 5, and 6 or the following links:

Ex. 4: <https://www.thegatewaypundit.com/2022/09/watch-trump-endorsed-kari-lake-joins-tucker-carlson-italy-elects-first-female-populist-leader-not-attacking-probably-not-truly-representing/>;

Ex. 5: <https://www.thegatewaypundit.com/2022/09/fcked-really-dont-real-true-freedom-speech-youtube-star-pro-boxer-jake-paul-responds-gateway-pundit-reporters-question-big-tech-censorship-pre-fig/>;

Ex. 6: <https://www.thegatewaypundit.com/2022/09/maricopa-county-appointed-100-democratic-poll-workers-republicans-extremely-flawed-primary-election-eleven-locations-no-republicans/>

<sup>5</sup> See full Tweet here: <https://www.reuters.com/world/us/kill-them-arizona-election-workers-face-midterm-threats-2022-11-06/>

<sup>6</sup> See full Tweet here: <https://twitter.com/WendyRogersAZ/status-1438487340138340358?s=20&t=nb-Ugc2zplCQweKrpexTEQ>

1 (3) act independently; and (4) Be accountable and transparent. *See* attached Exhibit 12.<sup>7</sup>

2 Among other things, this code requires a journalist to:

3 Take responsibility for the accuracy of their work. Verify information before  
4 releasing it. Use original sources whenever possible.

5 Avoid undercover or other surreptitious methods of gathering information  
6 unless traditional, open methods will not yield information vital to the public.

7 Balance the public's need for information against potential harm or  
8 discomfort. Pursuit of the news is not a license for arrogance or undue  
9 intrusiveness.

10 Avoid conflicts of interest, real or perceived.

11 Avoid political and other outside activities that may compromise integrity or  
12 impartiality or may damage credibility.

13 On September 30, 2022, Plaintiff Conradson was sent an email denying his  
14 application, stating:

15 Thank you for applying for a Maricopa County Press Pass. This email is to  
16 notify you that you have been denied a press credential based on the  
17 following criteria which is listed on Maricopa.gov:

18 #4: You (a) do not avoid real or perceived conflicts of interest and (b) are not  
19 free of associations that would compromise journalistic integrity or damage  
20 credibility. Therefore, you are not a bona fide correspondent of repute in your  
21 profession.

22 If you would like to appeal this decision, please reply to this email stating the  
23 reasons it should be reconsidered.

24 Further, any press conference about the 2022 Election will be streamed to a  
25 Maricopa County YouTube channel and you are welcome to view it.<sup>8</sup>

26 Despite being denied a Press Pass, Plaintiff Conradson appeared at press conference  
27 on October 13, 2022, with a hidden camera. On November 10, 2022, he showed up at  
28 MCTEC under the guise of being there to pick up his credentials. He became disruptive and

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<sup>7</sup> See the link here: <https://www.spj.org/ethicscode.asp>

<sup>8</sup> *See* attached Exhibit 13. The reference to 4(a) & (b) was a scrivener's error and should have been 5(a) & (b). Compare to Exhibit 1.



1 Defendants had to remove him from the facility. Plaintiff Conradson and Ben Bergquam,  
 2 another person denied a press pass (also removed from the property for trespassing),  
 3 produced at least one video about their removal.<sup>9</sup>

4 Despite framing their Motion for Temporary Restraining Order as one for emergency  
 5 relief, Plaintiffs waited 41 days to seek the TRO, even though the County held multiple  
 6 press conferences in the weeks leading up to and the days after the November 8, 2022,  
 7 election. Indeed, Plaintiff Conradson did not even reply to the denial email until November  
 8 10, 2022, the same day the Complaint and Motion for Temporary Restraining Order were  
 9 filed. *See* attached Exhibit 15. However, his purported appeal was not an appeal at all  
 10 because it failed to state any substantive reasons his application should be reconsidered or  
 11 how he met the criteria.

## 12 **II. LEGAL STANDARD**

13 “The standard for issuing a temporary restraining order is identical to the standard  
 14 for issuing a preliminary injunction.” *Brown Jordan Int’l, Inc. v. Mind’s Eye Interiors, Inc.*,  
 15 236 F. Supp. 2d 1152, 1154 (D. Haw. 2002). The only distinction between the two is that  
 16 under the federal rules of civil procedure, a preliminary injunction requires notice to the  
 17 adverse party, whereas a temporary restraining order may be issued without notice. Fed. R.  
 18 Civ. P. 65.

19 To succeed on a motion for preliminary injunction, the moving party must establish  
 20 each of the following four elements: “(1) that they are likely to succeed on the merits; (2)  
 21 that they are likely to suffer irreparable harm in the absence of preliminary relief; (3) that  
 22 the balance of equities tips in their favor; and (4) that an injunction is in the public interest.”  
 23 *Alaska Landmine, L.L.C. v. Dunleavy*, 514 F. Supp. 3d 1123, 1128 (D. Alaska 2021), *appeal*  
 24 *dismissed*, No. 21-35137, 2021 WL 2103741 (9th Cir. Mar. 4, 2021) (citing *Winter v. Nat’l*  
 25 *Res. Def. Council, Inc.*, 555 U.S. 7 (2008)).

26  
 27 <sup>9</sup> See Exhibit 14 (still shot). Full video is linked here:  
 28 [https://twitter.com/BenBergquam/status/1590893457249558528?s=20&t=Ot\\_HxMs48Ekt1\\_Z2UET\\_3w](https://twitter.com/BenBergquam/status/1590893457249558528?s=20&t=Ot_HxMs48Ekt1_Z2UET_3w)

1 “[I]f a plaintiff shows ‘that there are ‘serious questions going to the merits’—a lesser  
 2 showing than likelihood of success on the merits—then a preliminary injunction may still  
 3 issue if the ‘balance of hardships tips *sharply* in the plaintiff's favor.’” *Dunleavy*, 514 F.  
 4 Supp. 3d at 1128. “Serious questions are ‘substantial, difficult, and doubtful,’ as to make  
 5 them a fair ground for litigation and thus for more deliberative investigation.” *Id.*

6 There are two types of preliminary injunctions, those that prohibit a party from  
 7 taking action and thus preserve the status quo (a prohibitory injunction), and those that seek  
 8 to order a responsible party to take action (a mandatory injunction). “Where a movant seeks  
 9 a mandatory injunction, rather than a prohibitory injunction, injunctive relief is ‘subject to  
 10 a higher standard’ and is ‘permissible when ‘extreme or very serious damage will result’  
 11 that is not ‘capable of compensation in damages,’ and the merits of the case are not  
 12 ‘doubtful.’” *Atwood v. Days*, No. CV2000623PHXJATJZB, 2021 WL 5811800, at \*3 (D.  
 13 Ariz. Dec. 7, 2021), *clarified on denial of reconsideration*, No. CV2000623PHXJATJZB,  
 14 2021 WL 6091278 (D. Ariz. Dec. 23, 2021) (citing *Hernandez v. Sessions*, 872 F.3d 976,  
 15 999 (9th Cir. 2017)). Plaintiffs’ motion requests a mandatory injunction subject to the higher  
 16 standard. Specifically, they request that “the Gateway Pundit must be permitted to attend  
 17 press conferences, immediately,” which would mandate the Defendants to issue a Press  
 18 Pass. *See* Corrected Emergency *Ex Parte* Motion for a Temporary Restraining Order (Doc.  
 19 7) at 5:20-21.

20 A plaintiff alleging constitutional torts under 42 U.S.C. § 1983 must allege that  
 21 “every government defendant—supervisor or subordinate—acted with the state of mind  
 22 required by the underlying constitutional provision.” *OSU Student All. v. Ray*, 699 F.3d  
 23 1053, 1070 (9th Cir. 2012).

### 24 **III. ANALYSIS**

#### 25 **A. Plaintiffs are not likely to succeed on the merits.**

26 The aim of the Press Pass criteria is to provide safety and security for County  
 27 officials, temporary employees, and credentialed political party volunteers to perform their  
 28 important duties while also allocating limited resources to permit credentialed journalists to

1 attend conferences, observe the actions of the elections department, and interact with  
2 election officials so they can report accurate information to the public.

3 A traditional public forum, *e.g.*, public streets, is open to anyone and speakers cannot  
4 be excluded from a traditional public forum without a compelling governmental interest.  
5 *Dunleavy*, 514 F. Supp. 3d at 1130. But press conferences are nonpublic forums and public  
6 entities are entitled to limit persons who can attend. “[I]n ‘nonpublic forums,’ access may  
7 be restricted ‘as long as the restrictions are reasonable and are not an effort to suppress  
8 expression merely because public officials oppose the speaker’s view.’” *Id.* (citing  
9 *Cornelius v. NAACP Legal Def. & Educ. Fund, Inc.*, 473 U.S. 788, 800 (1985)). Moreover,  
10 “Control over access to a nonpublic forum can be based on subject matter and speaker  
11 identity so long as the distinctions drawn are reasonable in light of the purpose served by  
12 the forum and are viewpoint neutral.” *Cornelius*, 473 U.S. at 806. “The Government’s  
13 decision to restrict access to a nonpublic forum need only be *reasonable*; it need not be the  
14 most reasonable or the only reasonable limitation.” *Id.* at 808. The government also has the  
15 ability to restrict access to a government building that is not intended as a public forum.  
16 *Seattle Mideast Awareness Campaign v. King Cnty.*, 781 F.3d 489, 497 (9th Cir. 2015)  
17 (granting selective access under pre-established guidelines that impose speaker-based or  
18 subject-matter limitations negates any suggestion that the government intends to open its  
19 property to the “indiscriminate use by all or part of the general public.”).

20 Once the government decides to restrict attendance at press conferences, it must have  
21 written guidelines that are subject to evaluation. “In essence, given the import of First  
22 Amendment rights, the government must publicly memorialize the applicable standards to  
23 ensure both due process and compelling government interests for any and all denials of  
24 access.” *Dunleavy*, 514 F. Supp. 3d at 1132 (citing *Sherrill v. Knight*, 569 F.2d 124, 129–  
25 30 (D.C. Cir. 1977)). Here, the County articulated the written criteria that would be applied  
26 when considering an application for a Press Pass. And the criteria are viewpoint neutral.<sup>10</sup>

27 <sup>10</sup> See Exhibit 1, or the link here: [https://www.maricopa.gov/5856/Maricopa-County-](https://www.maricopa.gov/5856/Maricopa-County-2022-Elections-Press-Pas#criteria)  
28 [2022-Elections-Press-Pas#criteria](https://www.maricopa.gov/5856/Maricopa-County-2022-Elections-Press-Pas#criteria).

Although Plaintiffs’ motion claims the criteria for a Press Pass are vague, Plaintiff Conradson failed to inquire about them at any time, either before he applied for a Press Pass, at the time he wrote his article criticizing the policy, or after his application was denied—or even when he filed his belated “appeal.” Thus, the criteria were either clear enough to him or he didn’t care enough to ask. In any event, as indicated above, the same criteria were approved in—and drawn directly from—*John K. MacIver Inst. for Pub. Pol’y, Inc. v. Evers*, 994 F.3d 602, 610–11 (7th Cir. 2021), *cert. denied*, 142 S. Ct. 711 (2021). Seventh Circuit Court of Appeals opinion.

Plaintiff Conradson’s actions of appearing at the MCTEC office lobby, trying to sneak into the building alongside credentialed Press Pass members, and refusing to leave until escorted out of the building, can only be described as disruptive. In addition, his article about the creation of the Press Pass criteria, the three articles he submitted, as well as his associations, clearly indicate that he was properly denied a Press Pass for the reasons cited in the denial email.

Plaintiffs are unlikely to succeed on the merits of their complaint because the Defendants were permitted to limit access to their building and nonpublic press conferences, the criteria for obtaining limited access via a Press Pass are clearly stated on the website and content neutral, Plaintiff Conradson does not meet the criteria, and the criteria used have been approved by the Seventh Circuit Court of Appeals. While the Seventh Circuit’s decision is not binding on this Court, it is certainly sufficient authority to deny Plaintiffs’ motion.

**B. Plaintiffs are not likely to suffer irreparable harm in the absence of preliminary relief.**

As the denial email stated, “Further, any press conference about the 2022 Election will be streamed to a Maricopa County YouTube channel and you are welcome to view it.”<sup>11</sup> Any alleged harm is greatly minimized when the press conference at issue is live

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<sup>11</sup> See Exhibit 13.

1 streamed over the internet. “Harm is admittedly *de minimis* while the COVID-19 pandemic  
2 requires events like press conferences to be held virtually and the governor’s office offers  
3 a public livestream that anyone can access.” *Dunleavy*, 514 F. Supp. 3d at 1135.

4 Moreover, access to a press conference does not mean a member of the press has a  
5 right to be called on or to have his or her questions answered. *Dunleavy*, 514 F. Supp. 3d at  
6 1135 (“[T]he Governor possesses the discretion to refrain from calling on Plaintiffs or  
7 answering their questions.”). Plaintiff Conradson thus cannot make out a showing of any  
8 actual harm: he can view the press conference online to gather any information from the  
9 County about which he wants to report, and he would not be constitutionally entitled to ask  
10 questions even if he were physically present within the press conference room.

11 **C. The balance of equities and public interest favors denial of Plaintiffs’**  
12 **motion.**

13 The harm to the opposing party and consideration of the public interest elements  
14 merge when the government is the opposing party. *Dunleavy*, 514 F. Supp. 3d at 1128–  
15 29. Here, there is a strong public interest in ensuring that individuals who have a record of  
16 providing accurate information to the public have access to the limited space in the building  
17 and press conferences to gather the news and report to the public.

18 However, the County would be overly burdened if it granted access to everyone with  
19 a social media presence and a propensity to write opinion pieces that are not fact checked  
20 by writers who fail to avoid conflicts of interest. The Gateway Pundit has been identified  
21 as the reason for threats made against election officials. *See* Exhibit 16 (12/2/2021 Reuters  
22 article regarding two Georgia workers suing The Gateway Pundit for their articles leading  
23 to workers being harassed and threatened);<sup>12</sup> Exhibit 17 (12/3/2021 Reuters article citing  
24 The Gateway Pundit as being responsible for 25 election workers being targeted);<sup>13</sup> Exhibit

25 <sup>12</sup> See article linked here: [https://www.reuters.com/business/media-telecom/two-georgia-](https://www.reuters.com/business/media-telecom/two-georgia-election-workers-sue-far-right-website-over-false-fraud-allegations-2021-12-02/)  
26 [election-workers-sue-far-right-website-over-false-fraud-allegations-2021-12-02/](https://www.reuters.com/business/media-telecom/two-georgia-election-workers-sue-far-right-website-over-false-fraud-allegations-2021-12-02/)

27 <sup>13</sup> See article linked here: [https://www.reuters.com/investigates/special-report/usa-](https://www.reuters.com/investigates/special-report/usa-election-threats-gatewaypundit/)  
28 [election-threats-gatewaypundit/](https://www.reuters.com/investigates/special-report/usa-election-threats-gatewaypundit/)

18 (11/6/2022 Reuters article regarding harassment and threats made to Maricopa County employees, including how The Gateway Pundit published the name and photos of a staff technician against whom readers then made threats);<sup>14</sup> Exhibit 19 (11/7/2022 Vice news article regarding how many threats made against Arizona election workers were fueled by coverage from far right blogs and pundits, including The Gateway Pundit).<sup>15</sup> In addition, Plaintiff Conradson posted an article and video about harassing State Senator Michelle Ugenti-Rita until he was ordered to leave the building. *See* attached Exhibit 20.<sup>16</sup>

During the days following the General Election, when County officials and members of the public assist with the process of finalizing the election results, it is especially important that the process not be disrupted by individuals with an agenda antithetical to ethical reporting. And, given Plaintiff Conradson's behavior following the denial of a Press Pass and his previous disruptive behavior at campaign-related events, it is not unreasonable to believe he would be similarly disruptive at County press conferences designed to provide accurate information about election processes. This, coupled with concerns about Plaintiff Conradson's journalistic impartiality—as evidenced by his attendance as a participant (not a reporter) at political and campaign events—more than justifies the County's decision to deny him press credentials. Both the public interest in obtaining true reporting on the election process, and the government's interest in security and optimizing its limited manpower and resources balances in favor of the Defendants.

**D. Plaintiffs' Equal Protection argument has no merit.**

Finally, Plaintiffs' motion alleges a violation of the Fourteenth Amendment Equal Protection Clause. However, the analysis is essentially the same as the First Amendment analysis. Because the forum in question is nonpublic, the County needs only to articulate a

<sup>14</sup> See article linked here: <https://www.reuters.com/world/us/kill-them-arizona-election-workers-face-midterm-threats-2022-11-06/>

<sup>15</sup> See article linked here: <https://www.vice.com/en/article/z348da/arizona-election-workers-threats-midterms>

<sup>16</sup> See article and video (at the end) here: <https://www.thegatewaypundit.com/2021/07/state-senator-michelle-ugenti-rita-tgp-reporter-removed-trump-rally-arrested-booed-off-stage-video/>

1 rational basis for the Press Pass policy. In *Perry Educ. Ass’n v. Perry Loc. Educators’*  
 2 *Ass’n*, 460 U.S. 37 (1983), a school board of education granted exclusive access of the  
 3 interschool mail system and teacher mailboxes to the exclusive bargaining representative  
 4 for the school district and denied that same access to any rival union. Plaintiff sued the  
 5 school district under both the Equal Protection Clause of the Fourteenth Amendment and  
 6 the First Amendment. The Supreme Court first held that the First Amendment was not  
 7 violated by the preferential access because the public property at issue was not a forum for  
 8 public communication, the regulation of speech was reasonable and not an effort to suppress  
 9 expression that the school officials opposed, and because the differential access was  
 10 consistent with the school board’s legitimate interest in preserving the property for the use  
 11 to which it was lawfully dedicated. *Id.* at 37–38. Regarding appellant’s Equal Protection  
 12 argument, the Court stated,

13       The differential access provided the rival unions does not constitute  
 14 impermissible content discrimination in violation of the Equal Protection  
 15 Clause. Since the grant of exclusive access to PEA does not burden a  
 16 fundamental right of PLEA, the School District’s policy need only rationally  
 further a legitimate state purpose. That purpose is clearly found in the special  
 responsibilities of an exclusive bargaining representative.

17 *Id.* at 38; *see also OSU Student All. v. Ray*, 699 F.3d 1053, 1067 (9th Cir. 2012)

18 (noting that a party’s Equal Protection claims rise and fall with their First Amendment  
 19 claims when they do not allege membership in a protected class or contend that the  
 20 government’s conduct burdened any fundamental right, and that “[o]nly when rights of  
 21 access associated with a public forum are improperly limited may we conclude that a  
 22 fundamental right is impinged.” (citing *Monterey Cnty. Democratic Cent. Comm. v. U.S.*  
 23 *Postal Serv.*, 812 F.2d 1194, 1200 (9th Cir. 1987)).

24       In summary, Plaintiffs are not likely to prevail on their Equal Protection claim for  
 25 the same reasons they are not likely to prevail on their First Amendment claims.

#### 26 **IV. CONCLUSION**

27       As was stated in the introduction, this case is not about a government entity imposing  
 28 a restraint on Plaintiffs’ freedom to report on the 2022 election. Nor is it about limiting



1 Plaintiffs' access to view and report on press conferences held as part of the County's efforts  
2 to provide timely and accurate information to the public. Instead, it involves the County's  
3 considered judgment about the best way to allocate its limited resources to make accurate  
4 information available to voters in Maricopa County and throughout Arizona. Based on the  
5 articulated Press Pass criteria, Plaintiff Conradson was properly denied a press pass.  
6 Plaintiffs' motion for a Temporary Restraining Order should be denied.

7 **RESPECTFULLY SUBMITTED** this 16th day of November 2022.

8 RACHEL H. MITCHELL  
9 MARICOPA COUNTY ATTORNEY

10 BY: /s/ Charles E. Trullinger

11 THOMAS P. LIDDY

12 CHARLES E. TRULLINGER

13 JOSEPH J. BRANCO

14 JOSEPH E. LA RUE

15 *Attorneys for Maricopa County Board of*  
16 *Supervisors, Recorder Stephen Richer, Rey*  
17 *Valenzuela, Scott Jarrett, Megan*  
18 *Gilbertson, and Marcus Milam*  
19  
20  
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**CERTIFICATE OF SERVICE**

I hereby certify that on November 16, 2022, I caused the foregoing document to be electronically transmitted to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

Honorable John J. Tuchi  
Judge of the United States District Court  
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*Attorneys for Plaintiffs*  
*TGP Communications, LLC and Jordan Conradson*

/s/ D. Shinabarger

S:\CIVIL\CIV\Matters\GN\2022\TGP Communications v. Sellers 2022-3214\Pleadings\Word\Response to Motion for TRO Final.docx

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF ARIZONA**

TGP Communications, LLC, d/b/a The  
Gateway Pundit, a Missouri limited  
liability company; and Jordan  
Conradson, an individual,

Plaintiffs,

v.

Jack Sellers, Thomas Galvin, Bill Gates,  
Clint Hickman, and Steve Gallardo, in  
their respective official capacities as  
members of the Maricopa County Board  
of Supervisors; Stephen Richer, in his  
official capacity as the Maricopa County  
Recorder; Rey Valenzuela and Scott  
Jarrett, in their official capacities as  
Maricopa County Election Directors;  
and Megan Gilbertson and Marcus  
Milam, in their official capacities as  
Maricopa County Communications  
Officers,

Defendants.

NO. CV-22-01925-JJT

**DEFENDANT EXHIBIT LIST**

**EXHIBIT LIST:**

Ex. 1 Maricopa County 2022 Elections Press Pass Criteria

Ex. 2 Press Access Memorandum

Ex. 3 MC Requiring Official Press Pass Article.

1 Ex. 4 Tucker Carlson Interview of Kari Lake

2 Ex. 5 September 13, 2022 Conradson article

3 Ex. 6 OVER 100 More Democratic Poll Workers article

4 Ex. 7 Wendy Rogers Event 10.3.21

5 Ex. 8 JC Pic Status.

6 Ex. 9 JC Pic Audit Volunteers reunion.

7 Ex. 10 Conradson at Hamilton and Trump event.

8 Ex. 11 Conradson at Hamilton and Trump event 2.

9 Ex. 12 Code of Ethics.

10 Ex. 13 Email to J. Conradson Denying Media Credentials

11 Ex. 14 Tweet JC - Escort out of Elections facility.

12 Ex. 15 - Reply email

13 Ex. 16 Georgia Workers Sue Over False Fraud Allegation

14 Ex. 17 Pro Trump Target Election workers

15 Ex. 18 Reuters-Kill them -AZ Election workers face midterm threats

16 Ex. 19 AZ Election workers threats midterm.

17 Ex. 20 Senator Ugenti-Rita.

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## Exhibit 1

Search

# MARICOPA COUNTY 2022 ELECTIONS PRESS PASS



Maricopa County will require an official Press Pass for members of the press to enter its facilities and/or cover events related to the 2022 General Election. Because of logistical and security considerations, it is impossible to give the public and media limitless access to Members of the Board of Supervisors, the County Recorder and election experts for events such as press conferences and availabilities.

Select Language



# Official Press Pass Criteria

The official press pass will allow a member of the press to attend news conferences or enter the Elections Department's office to conduct interviews, take photos, and/or video.

(see disclaimer below)

"Member of the press" will be evaluated by Maricopa County on the following criteria:

1

Is the person requesting press credentials employed by or affiliated with an organization whose principal business is news dissemination?

2

Does the parent news organization meet the following criteria?

a. It has published news continuously for at least 18 months, and;

b. It has a periodical publication component or an established television or radio presence.

3

Is the petitioner a paid or full-time correspondent, or if not, is acting on behalf of a student-run news organization affiliated with an Arizona high school, university, or college?

4

Is the petitioner or its employing organization engaged in any lobbying, paid advocacy, advertising, publicity, or promotion work for any individual, political party, corporation, or organization?

5

Is the petitioner a bona fide correspondent of repute in their profession, and do they and their employing organization exhibit the following characteristics?

a. Both avoid real or perceived conflicts of interest;

b. Both are free of associations that would compromise journalistic integrity or damage credibility;

c. Both decline compensation, favors, special treatment, secondary employment, or political involvement where doing so would compromise journalistic integrity; and

d. Both resist pressures from advertisers, donors, or any other special interests to influence coverage.

This list is not exhaustive. The time, manner, and place limitations or needs of any one event may require consideration of additional factors.

Members of the news media must submit [this form for review](#).

Each staff member must apply. Maricopa County will not issue a generic pass to a news organization to be used by any staff member.

Please allow at least three days before an event for pass approval. Passes must be picked up in person at the Maricopa County Tabulation and Elections Center, 510 S. 3rd Ave. Phoenix AZ 85003. Be prepared to show a valid driver license, state ID, or passport to receive credentials.

Select Language ▼

Search

## Exhibit 2



## MEMORANDUM

RE: Press Access

Date: 6/26/2019

From: Office of Legal Counsel

To: Office of the Governor and Office of the Lt. Governor, Communications

---

Because of logistical and security considerations, it is impossible to give the public and media limitless access to the Governor and Lt. Governor for events like press conferences and press avails. This memo is designed to provide guidance for determining how and when media is granted access to the Governor for exclusive/limited-access events.

The most important consideration is that access is based on neutral criteria. When an individual or organization petitions for media access, you should consider the following factors:<sup>1</sup>

1. Is the petitioner employed by or affiliated with an organization whose principal business is news dissemination?
2. Does the parent news organization meet the following criteria?
  - a. It has published news continuously for at least 18 months, and;
  - b. It has a periodical publication component or an established television or radio presence.
3. Is the petitioner a paid or full-time correspondent, or if not, is acting on behalf of a student-run news organization affiliated with a Wisconsin high school, university, or college?
4. Is the petitioner a bona fide correspondent of repute in their profession, and do they and their employing organization exhibit the following characteristics?
  - a. Both avoid real or perceived conflicts of interest;
  - b. Both are free of associations that would compromise journalistic integrity or damage credibility;
  - c. Both decline compensation, favors, special treatment, secondary employment, or political involvement where doing so would compromise journalistic integrity; and
  - d. Both resist pressures from advertisers, donors, or any other special interests to influence coverage.
5. Is the petitioner or its employing organization engaged in any lobbying, paid advocacy, advertising, publicity or promotion work for any individual, political party, corporation or organization?

---

<sup>1</sup>This guidance is based on established standards used by the Wisconsin Capitol Correspondents Board (<http://presscredentials.legis.wisconsin.gov/>) and the US Congress ([https://www.dailypress.senate.gov/?page\\_id=70](https://www.dailypress.senate.gov/?page_id=70)). This office will not do formal credentialing.

This list is not exhaustive. The time, manner, and place limitations or needs of any one event may require consideration of additional factors, and you are encouraged to seek legal advice at any point for guidance.

If you create any set media distribution lists, please consult with the Office of Legal Counsel prior to its use.

## Exhibit 3

## BREAKING: Maricopa County Creates “Ministry Of Truth” To Silence The Gateway Pundit – Now Requiring Official Press Pass For Media “To ENTER ITS FACILITIES And/Or Cover Events Related To The 2022 General Election”

By Jordan Conradson

Published September 27, 2022 at 9:32pm

1087 Comments



**Maricopa County is already covering its tracks ahead of the 2022 General Election with what some are calling a “Ministry of Truth” to prevent real media and honest questions.**

“Maricopa County will require an official Press Pass for members of the press to enter its facilities and/or cover events related to the 2022 General Election,” **stated** a new order from the County.



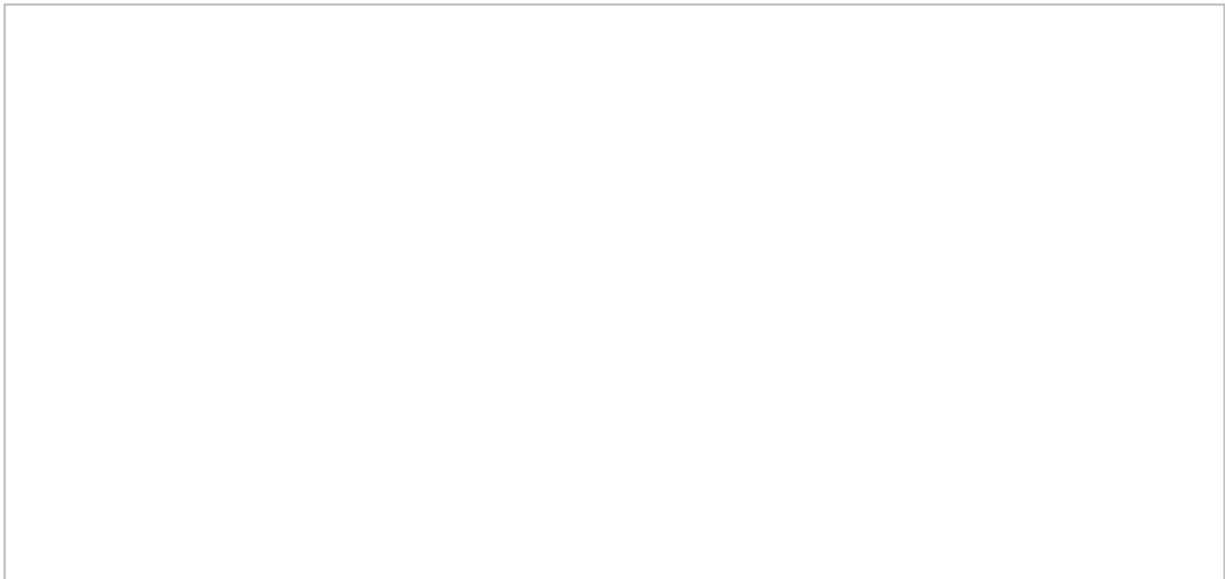
In order to register for a press credential, reporters must provide the following information, agree and sign their name attesting to the following:

x

By signing this application for a Maricopa County Press Pass, I certify that I am a journalist without a conflict of interest or association that would compromise my journalistic integrity.

Further, I do not receive compensation or special treatment from advertisers or political organizations that would influence my coverage related to Maricopa County or its elections.

I am not a lobbyist, advertiser, paid advocate or influencer for any individual, political party, corporation, or organization.



Therefore, no left-wing media outlet should be allowed to cover the election. However, that is probably not the case.

This is part of an announcement of the newly formed “Elections Command Center to Share Info with Voters, Combat Disinformation.”



The Gateway Pundit previously reported on these same tactics employed by the Biden Regime. After announcing the Biden Regime's failed "**disinformation governance board**," the White House later announced a new program called "the White House Task Force to Address Online Harassment and Abuse." This was created to "address" (silence) what the government deems to be "online harassment, abuse, and disinformation campaigns."

x

### 'Ministry of Truth' 2.0: Kamala Harris to Lead New Task Force Targeting "Online Harassment, Abuse, and Disinformation Campaigns"

**Maricopa County** shared the following message on Twitter announcing the newly formed "Command Center."

**Maricopa County**   
@maricopacounty · [Follow](#)

NEW: Board, Recorder, and [@maricopavote](#) establish the 2022 Elections Command Center as a central hub of information leading up to & following the Nov. 8 General Election. Plan to host regular news conferences in October and November for credentialed media.  
More: [content.govdelivery.com/accounts/AZMAR...](https://content.govdelivery.com/accounts/AZMAR...)

11:38 AM · Sep 27, 2022





19



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[Read 42 replies](#)

The official **announcement** states,

### **Maricopa County Forms Elections Command Center to Share Info with Voters, Combat Disinformation**

Six elected officials and a team of elections and communications professionals are coming together as one ahead of the 2022 November General Election in Maricopa County. Today, Board of Supervisors Chairman Bill Gates and Recorder Stephen Richer established the “2022 Elections Command Center” which will serve as a central hub of information for the weeks leading up to and following the Nov. 8 General Election.

“At the beginning of the year, I promised we would run the most transparent elections this county has seen, and I’m proud of what the Board of Supervisors, the Recorder’s Office, and our elections team have done to date,” said Chairman Bill Gates, District 3. “The Command Center will further deliver on that promise by creating a structure that allows us to reach more people, faster, with factual information about how elections are run and how people can successfully participate.”

“We ran a terrific Primary Election, but because of our ‘continuous improvement’ work ethic, we will have an incredible communications team assembled that will allow us to better respond to constituent concerns and combat misinformation during the General Election,” said Maricopa County Recorder Stephen Richer. “I look forward to partnering with the Board of Supervisors to make this a great election for Maricopa County voters.”

The Elections Command Center will bring together communicators and subject matter experts from the Elections Department, Recorder's Office, County Manager's Office, and other county agencies for the following purposes:

- Clear, consistent communication about voting deadlines and election processes to Maricopa County's more than 2.4 million eligible voters which enables them to cast their ballot in the way they choose.
- Outreach and response to local, national, and international media covering Arizona elections
- Quick and accurate response to mis-, dis-, and mal-information related to the administration of elections in Maricopa County
- Updates on tabulation and reporting of results following Election Day

**Starting today, all media requests related to the November General Election in Maricopa County should be directed to the Elections Command Center using the following email address:**

**[media@risc.maricopa.gov](mailto:media@risc.maricopa.gov)**. This applies to requests for interviews as well. The Elections Command Center will host regular news conferences in October and November for credentialed media. Reporters interested in getting credentialed can **[apply here](#)**. News conferences will also be streamed live via social media for members of the public.

For reliable information about Maricopa County election administration, visit **[elections.maricopa.gov](https://elections.maricopa.gov)** and follow Maricopa County, Maricopa County Elections Department, and Maricopa County Recorder's Office on **[social media](#)**.

Arizona GOP Chairwoman Dr. Kelli Ward told The Gateway Pundit,





**Ward: Suppression of the free press by a government entity is a clear violation of the First Amendment. Arizona does not want or need its own “Ministry of Truth.” Again, what is Maricopa County trying to hide? Especially regarding elections?**

x

Liberal Hack journalist Jen Fifield, the same “reporter” who got **smacked down by Save America attorney Christina Bobb and Vernon Jones** at the Arizona audit, hinted that this new Ministry of Truth was designed specifically to target The Gateway Pundit correspondent **Jordan Conradson** for “trying to listen in” on Fake News reporters’ conversations and asking questions that “intimidate public officials.”

This is because of the incredibly botched 2022 Primary Election in Maricopa County. The Gateway Pundit previously **reported** on the election day incompetence in Maricopa County, where Republican voters were turned away from the polls due to printer malfunctions and ballots not being available while facing other issues stemming from the County’s shady felt-tipped pen recommendation.

**We also reported that 145 more Democratic activists than Republicans were hired by the RINO-controlled County to watch the polls, which is likely illegal.**

**BREAKING: Maricopa County Election Day Incompetence – PRINTERS NOT WORKING, Voters Told They’ve ALREADY VOTED, Polling Locations Not Seen On AZSOS Webpage – UPDATES**

They truly are intimidated by our real questions.



x



Abe Hamadeh's War Room account came to our defense and declared they "proudly stand in journalistic solidarity" with The Gateway Pundit correspondent Jordan Conradson and The Western Journal's Olivia Brown.

**Craig Harris** · Sep 27, 2022

@CraigHarrisUSAT · [Follow](#)

Replying to @AbeWarRoom and @JenAFifield

Nope. Pretty common process. Gov. @DougDucey, for example, only allows accredited, legitimate media members to attend certain briefings, and the @Suns don't let any random bloggers or self-proclaimed media members attend practices or have locker room access.

**Abe Hamadeh War Room**

@AbeWarRoom · [Follow](#)

Sure, @CraigHarrisUSAT.

We're sure this process won't be used to shut out any form of dissenting media.

And if it is, we're sure you'll proudly stand in journalistic solidarity with people like @ConradsonJordan & @oliviaintheusa, who refuse to walk the party line.

1:18 PM · Sep 27, 2022



9



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Stephen Richer also boasted about the County's suppression of The Gateway Pundit, and grassroots activist Merissa Hamilton slammed his Orwellian tactics.

**Stephen Richer—Maricopa Cnty Recorder...** · Sep 27, 2022

@stephen\_richer · [Follow](#)



Watch on Twitter

X

GIF

**Jen Fifield**  @JenAFifield

County elections getting all fancy. Really gonna miss The Gateway Pundit rolling in and trying to listen in on legitimate reporter conversations/intimidate public officials.

**Merissa Hamilton**     
@merissahamilton · [Follow](#)

How very 1984 of @maricopacounty to create a Ministry of Truth policy

X

2:07 PM · Sep 27, 2022



20



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Kelli Ward slammed Maricopa County for discriminating against the free press on Twitter.

**Dr. Kelli Ward**    
@kelliwardaz · [Follow](#)

Maricopa County discriminating against the free press.  
How quaint. [#1A](#)

**Jen Fifield**  @JenAFifield

County elections getting all fancy. Really gonna miss The Gateway Pundit rolling in and trying to listen in on legitimate reporter conversations/intimidate public officials.

12:43 PM · Sep 27, 2022





47



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[Read 4 replies](#)

This all comes after former Maricopa County Supervisor Steve Chucri resigned because The Gateway Pundit released undercover audio tapes where he admits that he does not feel comfortable with Dominion Voting Machines and that County Recorder Stephen Richer agreed with him.

### **BREAKING – LEAKED AUDIO: Maricopa County Supervisor Steve Chucri Admits: “I DON’T FEEL COMFORTABLE WITH DOMINION” – And County Recorder Stephen Richer AGREES!**

The same leftist news organizations promulgating conspiracy theories about “Russian collusion” in the 2016 Presidential Election will be allowed in, but likely not The Gateway Pundit and other conservative truth-telling outlets.

**Contact Maricopa County now to demand free and fair press coverage during the 2022 Election.**

[Submit a Correction](#)



Jordan Conradson

[Recent Posts](#)[Contact](#)

**Kari Lake Speaks Out On BS Stolen Election: "Arizonans Know BS When They See It"**

**(VIDEO) Charlie Kirk Show Discusses Votes That Need To Be Cured - Republicans Must Cure Their Ballots And GOP Has Not Been Given The List, At Least One Dead Voter Discovered**

**BREAKING: Another Absolutely Fraudulent Ballot Drop Makes Katie Hobbs Arizona Governor -**



**Demons Stole Arizona!**

**BREAKING: Maricopa County Dumps Damning Batch - Kari Lake Picks Up 56.8% But It's Likely Not Enough**

**ARIZONA VOTERS: Check Your Ballot Status Now In Case It Needs To Be CURED - Deadline Is Wednesday**

[See more...](#)

X

The Gateway Pundit is moving back to Disqus! All of your account information and comment history has been saved and will be uploaded as quickly as possible to Disqus. If you do not already have a Disqus account, you will need to create one. Please use the same email address that you used for Insticator for your comment history to be carried over. We greatly appreciate your patience and continued support!

**Gateway Pundit**

*Where Hope Finally Made a Comeback.*

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## Exhibit 4



## WATCH: Trump-Endorsed Kari Lake Joins Tucker Carlson After Italy Elects Its FIRST Female Populist Leader: “If They’re Not Attacking You, You’re Probably Not Truly Representing The People Of Your Country”

By Jordan Conradson

Published September 26, 2022 at 10:20pm

173 Comments



Trump-Endorsed [Kari Lake](#) joined Tucker Carlson Tonight on Monday to respond to the election of Italy’s new Prime Minister, Giorgia Meloni.

The Gateway Pundit recently reported on his historic feat of electing their first female leader – who is also a Center Right populist.

## **BREAKING: Italy Elects Its First Female and Populist Leader in History – Giorgia Meloni**

**Meloni understands what is good and what is right: God, family, and country.**

Because of this, the globalist left Fake News Media tried all they could to smear her as a fascist and prevent her from being elected.

Republican Arizona Gubernatorial Nominee Kari Lake, who is in a similar position and facing the same attacks, recently spoke out in support of Meloni.

The video below tells you exactly why the globalist elitist establishment tried so hard to stop her.

**Kari Lake** 

@KariLake · [Follow](#)

Governor candidate, AZ

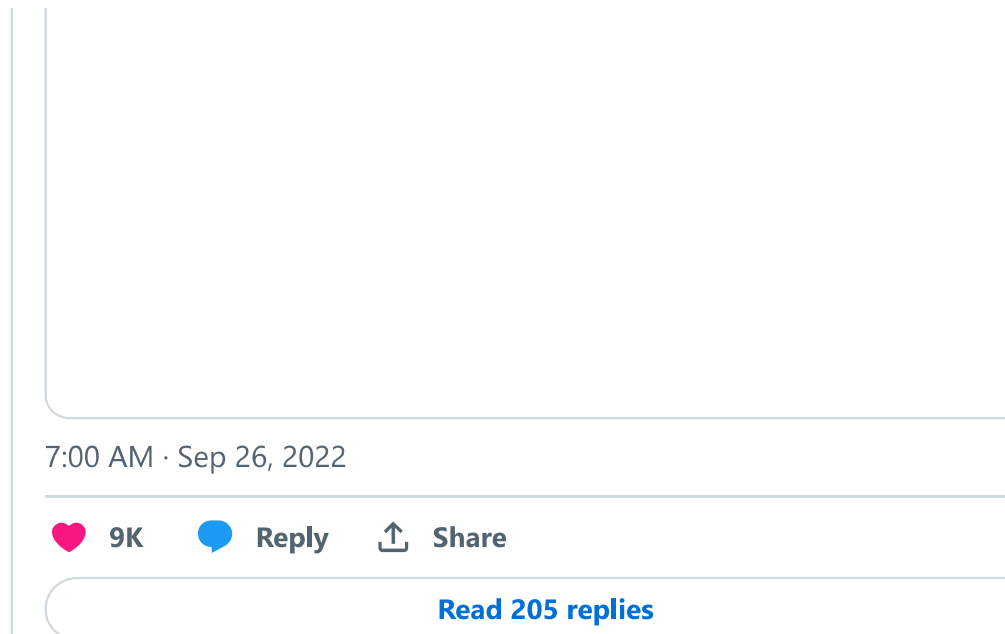
God Speed to Italy's incredible Prime Minister-elect  
[@GiorgiaMeloni!](#)

**Greg Price**  @greg\_price11

This is Italy's new Prime Minister Giorgia Meloni.

I've never heard any politician so perfectly explain what we're up against and why we fight.

When you watch this video, you'll quickly realize why the establishment is afraid of her.



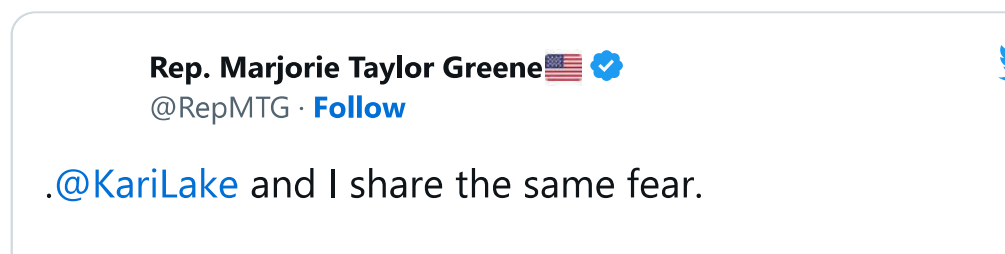
On Monday, Kari Lake joined Tucker Carlson after an incredible opening, where he explained the tactics used to stop Meloni.

The Gateway Pundit previously reported on her last appearance, where Tucker said he could see why the establishment is trying to stop Kari.

### **“I Can See Why They’re Trying To Silence You” – Tucker Carlson On Trump-Endorsed Kari Lake After She Gave THE BEST Response To Propagandist’s 2020 Election Question**

On tonight’s appearance, Lake told Tucker, “What I am scared to death of is what happens if we don’t step in right at this moment and do something, afraid of the world that our children will live in.”

Rep. Marjorie Taylor Greene agreed with Lake and shared the same fears in a recent tweet.



The fear of not stopping the evil attacks on our children's future.

To be extremely clear.

WE WILL NEVER BACK DOWN.

The American Revival is only beginning.

We have just begun.

**Kari Lake**  @KariLake

Governor candidate, AZ

.@KariLake: "I'm not afraid of the fake news, I'm not afraid of the globalists, I'm not afraid of anything that I'm facing on the campaign trail. I'm not afraid of the cartels. But I'm scared to death of what happens if we don't step in right at this moment, and DO something"

6:06 PM · Sep 26, 2022



6.1K



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Watch the full interview below.

**Carlson:** So you were one of the very first American politicians to weigh in on this election. You were paying attention, which I appreciated. What do

you make of this?

**Lake:** I'm so excited. You know, it's funny. I looked this Italian Ms. Meloni up when I heard about her about a week ago, and I couldn't find any straight-up information on her. Everything was, 'she's a fascist, she's a racist. She's this, she's that,' and I thought, 'wow. This is somebody who I can relate to' because they're doing the same thing about me. And it makes me realize that if they're not calling you all of these slurs, if they're not attacking you, then you're probably not truly representing the people of your country.

**Carlson:** But it's just so interesting that this is a change. **If you're elected in Arizona, it will be a change. Donald Trump was a change.** The people who are rejected by voters in this representative democracy that we have, never for one second learn anything from that rejection. Why do you think that is?

**Lake:** I don't know. I can't get into their minds. But I mean, I think of the Marjorie Taylor Greenes of the world, the Congressman Paul Gosars, the Donald Trumps of the world, what's happening in Italy, myself. The people who are truly understanding what's happening in this country, which is we're losing this country, are the ones who are being attacked. And I'm on the campaign trail; we're working six to 10 events a day. We're working really hard, and I had somebody reach out to me the other day and say, 'Kari, you are fearless. You are so fearless. you're not afraid of anything.' And I stopped him, and I said, Actually, I have great fear. **I'm not afraid of the fake news. I'm not afraid of the globalist. I'm not afraid of anything that I'm facing on the campaign trail. I'm not afraid of the cartels. What I am scared to death of is what happens if we don't step in right at this moment and do something, afraid of the world that our children will live in. That's what scares me to death.**

## Submit a Correction



Jordan Conradson

Recent Posts

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### Kari Lake Speaks Out On BS Stolen Election: "Arizonans Know BS When They See It"

(VIDEO) Charlie Kirk Show Discusses Votes That Need To Be Cured - Republicans Must Cure Their Ballots And GOP Has Not Been Given The List, At Least One Dead Voter Discovered

**BREAKING: Another Absolutely Fraudulent Ballot Drop Makes Katie Hobbs Arizona Governor - Demons Stole Arizona!**

**BREAKING: Maricopa County Dumps Damning Batch - Kari Lake Picks Up 56.8% But It's Likely Not Enough**

**ARIZONA VOTERS: Check Your Ballot Status Now In Case It Needs To Be CURED - Deadline Is Wednesday**

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## Exhibit 5



# “It’s F\*cked Up. We Really Don’t Have Real, True Freedom of Speech!” – YouTube Star and Pro Boxer Jake Paul Responds to Gateway Pundit Reporter’s Question at Pre-Fight Conference, Calls Out Zuckerberg (VIDEO)

By Jordan Conradson

Published September 13, 2022 at 9:50pm

1200 Comments



Via Jake Paul on Twitter



## YouTube sensation turned pro boxer Jake Paul took a direct swipe at Mark Zuckerberg and big tech oligarchs on Tuesday for their censorship of the American people.

X

Jake Paul recently came under fire by those who wish to silence views they disagree with. He came out against the censorship of social media influencer Andrew Tate, **saying**, “I don’t roll with Andrew Tate... But, I roll with free speech.”

Andrew Tate was recently banned from all social media platforms because of his views. Tate **says** that he was even banned from banks, Skype, Airbnb, and Uber in a “coordinated effort all at once.” No matter how much you disagree with someone’s speech, censorship is un-American.

The Regime is censoring everybody these days, including The Gateway Pundit. We recently **reported** that Jim Hoft of The Gateway Pundit is a key plaintiff in a **lawsuit** filed by the State of Missouri. The lawsuit alleges that the public statements, emails, and recently released documents, establish that the President of the United States and other senior officials in the Biden Administration violated the First Amendment by directing social-media companies to censor viewpoints that conflict with the government’s messaging on Covid-19 and election integrity, which is a **direct assault** on the First Amendment.

The censorship of The Gateway Pundit is intended to harm dissidents of the Biden Regime and silence the truth about these issues.

As The Gateway Pundit reported, Jake Paul has been vocal in the past about the Biden Regime’s failed policies that have led to “highest gas prices, worst inflation, plummeting crypto prices, highest rent prices ever, and creating new and incomprehensible language.”



## **YouTube Stars Are Beginning To Turn On Biden, Showing A Younger Generation Is Fed Up With His Poor Leadership**

X

**If you're reading this and voted for Biden and you still don't regret it then you are the American problem," Jake concluded on Twitter.**

Jake Paul squared off with Anderson Silva in front of the media on Tuesday in preparation for their upcoming boxing match.

The undefeated YouTube sensation is set to take on the former UFC champion from Brazil on October 29th at the Gila River Arena in Glendale, Arizona.

During the conference, The Gateway Pundit correspondent **Jordan Conradson** asked Paul, "what do you think of attempts to censor Americans by big tech companies and the current occupant of the White House?"

Everybody was caught off guard by the question, but Jake gave an excellent answer. He also used the opportunity to take a swipe at Zuckerberg and the Fake News Media for censoring information.

The crowd cheered when he agreed with our right to free speech. One attendee even shouted "f\*ck Joe Biden!"

**Paul: I think it's a good question. I think the state of our society is in a really interesting place and a bad place at that. Simply put, man, I don't think there should be censorship; freedom of speech. And the fact that these privately held companies can just take someone right off of their platform is f\*cked up, and in fact, the scary part about it is even speaking up against them – like I am currently doing – could get me censored. So we really don't have real, true freedom of speech**



**anymore, which is scary. And personally, you just see Mark Zuckerberg admit to it live on Joe Rogan, and the news wasn't really talked about. So, all of these media platforms have controlled narratives by people who are paying them in their pockets.**

The Gateway Pundit reported that Mark Zuckerberg admitted to Joe Rogan that Facebook algorithmically censored the Hunter Biden laptop story for seven days on a request from the FBI to protect the Bidens.

This is not the only critical content that Facebook has censored to control the narrative.

### **Mark Zuckerberg Tells Joe Rogan Facebook Censored Hunter Biden Laptop Story For 7 Days on Request From FBI (VIDEO)**

**Watch below:**

OANN's Daniel Baldwin shared the clip on his Twitter account. Watch below:



**Daniel Baldwin**@baldwin\_daniel\_ · [Follow](#)

"We really don't have real, true freedom of speech anymore."

The great [@jakepaul](#) rips Big Tech for censoring private speech online during the [#PaulSilva](#) press conference. [#JakePaul](#) brings up Mark Zuckerberg on [#JoeRogan](#) as proof.

Great question from [@ConradsonJordan](#)

Watch on Twitter

2:04 PM · Sep 13, 2022 from Arlington, VA



[Read the full conversation on Twitter](#)



129



Reply



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Jordan Conradson

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**BREAKING: Grassroots Group Releases Footage of Maricopa County Ballot Mules Stuffing Ballots in a Drop Box - VIDEO**

**Maricopa County Dumps More Ballots And Will Continue Counting After Stealing from GOP Candidates - Trump-Endorsed Abe Hamadeh Closes In On Democrat Attorney General Opponent**

**Maricopa County Supervisors Meeting TOMORROW (Wednesday) - AZ Patriots Sign Up To Speak By 8 AM**

**Turncoat Mike Pence Teases Potential 2024 Run Against President Trump**

**PATRIOTS IN ARIZONA: Document Your Affidavit Of Corrupted Voting Experience HERE**

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X

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## Exhibit 6



# Maricopa County Appointed OVER 100 More Democratic Poll Workers Than Republicans In Extremely Flawed Primary Election – ELEVEN Locations Had No Republicans At All

By Jordan Conradson

Published September 14, 2022 at 4:20pm

376 Comments



**Maricopa County officials are accused of violating the law that requires them to have an equal number of poll workers from each party in the highly flawed 2022 Primary Elections.**



The Gateway Pundit previously **reported** on the election day incompetence in Maricopa County, where Republican voters were turned away from the polls due to printer malfunctions, ballots not being available, and faced issues stemming from the County's felt-tipped pen recommendation. X

We also **reported** that Maricopa County stopped the counting in the middle of the night on election night, just after Trump-Endorsed Kari Lake took the lead. **It took the County over a week to finish the tabulation process.**

Similar election day discrepancies were **reported** in Arizona's three largest counties. Multiple polling locations in **Pinal County** even ran out of Republican ballots, and voters were prevented from voting.

Two days after Election Day, The Maricopa County Republican Committee formally censured Maricopa County Recorder Stephen Richer, citing his election maladministration, which "resulted in significant failures (including reports of printers and scanners not working and the Pentel felt-tip pen smearing and not drying), unnecessary delays, and irregularities; all of which significantly tarnishing the reputation of Maricopa County on the national stage."

**BREAKING EXCLUSIVE: Ultra-MAGA Patriots FIGHT BACK! Maricopa County Republican Committee Passes Resolution To Formally Censure County Recorder Stephen Richer**

And now, a letter from RNC attorney Eric Spencer may explain these issues.

**145 more Democratic activists than Republicans were hired by the RINO-controlled County to watch the polls. Eleven polling locations**



**were not assigned any Republicans.**

X

Additionally, the receiving and inspection boards, responsible for receiving and inspecting ballots and ballot chain of custody, were filled with just ten Republican employees compared to 58 Democrats.

Breitbart **reported**,

**Arizona law requires election officials to hire “an equal number” of Republican and Democrat election inspectors at all voting locations.**

However, Maricopa county, which was the focus of several lawsuits and a contested recount stemming from the 2020 presidential election, hired over 100 more Democrat poll workers than Republicans during its August primary elections.

**While Maricopa county hired 857 Democrat poll workers, the county only had 712 Republicans.**

In a letter sent to Maricopa County Attorney’s office, Eric H. Spencer, who works for a firm that represents the RNC with respect to oversight of Arizona election administration, demanded answers about the disparity in poll workers.

Although Maricopa County Republican Committee chairwoman Mickie Niland provided the county with a list of “several hundred” Republican poll worker names ahead of the primary election, the letter revealed that **11 vote centers ended up with no GOP election inspectors at all.**

Spencer also highlighted a “significant disparity between political parties in the central processing boards utilized at the Maricopa County Tabulation and Election Center (MCTEC) during the primary.”



**Only ten Republican poll workers ended up in the “receiving/inspection boards,” compared to 58 Democrats. This disparity would violate the state’s election procedures manual, which requires each central board to be “comprised of two members of different political parties.”**

X

The RNC is requesting a written explanation as to why an equal number of Republican poll workers were not appointed for the primary and why the county did not utilize the list of names chairwoman Niland provided.

Further, the RNC requested any written documentation “that demonstrates the County’s efforts to hire Republican poll workers at the 11 voting locations in question.”

The letter also revealed that Maricopa county required some poll workers to make multi-day or multi-week commitments and work long or late hours.

“Rigorous working conditions are not uncommon during an election, but the County has artificially limited its pool of board workers (especially Republican board workers) by refusing to allow more manageable shifts,” Spencer wrote.

The RNC is also requesting an answer as to why the county could not provide greater flexibility for work hours “in light of the substantial Republican volunteer workforce ready and willing to serve.”

The letter to Maricopa county comes after the RNC **pressed** Kalamazoo, Michigan, for hiring 132 Democrats compared to 60 Republicans, and Flint, Michigan, for hiring just 27 Republicans compared to 442 Democrats.



The RNC demanded a response from Maricopa County officials no later than September 16.

x

Spencer wrote:

It is critical that the County provide this information as soon as possible, and no later than September 16, in order to assure the RNC and countless stakeholders that the requisite number of Republican workers will be recruited, trained, and assigned to all locations and positions for the forthcoming general election.

**Nobody is above the law, and Maricopa County must be held accountable before the General Elections.**

[Submit a Correction](#)



Jordan Conradson

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**Demons Stole Arizona!**[See more...](#)

X

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## Exhibit 7



← Tweet



Wendy Rogers  
@WendyRogersAZ

Here are some photos from the #AZAudit volunteer reunion last night. Wonderful time. For those saying the audit is "fake" and "not real" and "nothing is going to happen" - take a look at these audit volunteers. Patriots, everyone of them - real people who did the Lord's work.



5:58 AM · Sep 16, 2021 · Twitter Web App


834 Retweets 145 Quote Tweets 3,428 Likes




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## Relevant people



Wendy Rogers  
@WendyRogersAZ

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Arizona Senator, Conservative  
America First Pro-Trump Republican in  
#LD7. Air Force pilot, biz  
entrepreneur, homeschool mom.  
#MAGA #AmericaFirst

## What's happening

NCAA Men's Basketball · Last night

Bulldogs at Red Raiders



Trending in United States



## Exhibit 8



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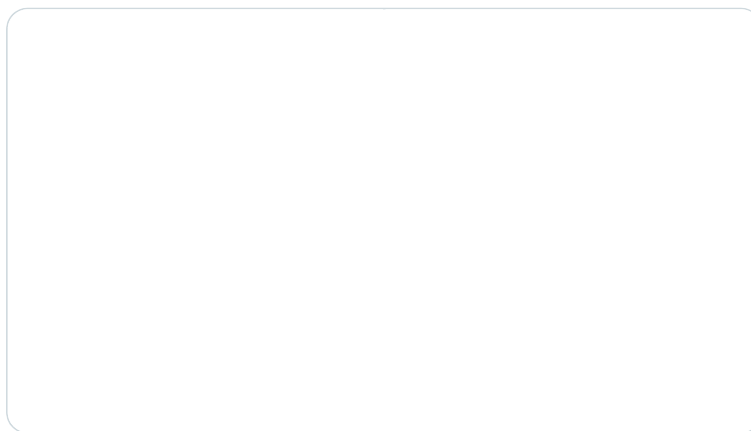
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## Tweet

**Wendy Rogers**   
@WendyRogersAZ

Here are some photos from the [#AZAudit](#) volunteer reunion last night. Wonderful time. For those saying the audit is "fake" and "not real" and "nothing is going to happen" - take a look at these audit volunteers. Patriots, everyone of them - real people who did the Lord's work.



5:58 AM · Sep 16, 2021 · Twitter Web App

834 Retweets 145 Quote Tweets 3,428 Likes

**Mastermattie** @mastermattie · Sep 16, 2021

Replying to @WendyRogersAZ

Show the results please, people are getting impatient.



13



3



33

**DeeReedBrklyn** @DeeReedBrklyn · Sep 16, 2021

Replying to @mastermattie and @WendyRogersAZ

There are no results, or you would have seen them already.



1



55

**The Ryan Express** @MENO5076 · Sep 16, 2021

Replying to @WendyRogersAZ

Enough of the cheerleading already....American's just want the results of the audit good or bad.



8



32

**Jmf** @JamesFales2 · Sep 16, 2021

Replying to @MENO5076 and @WendyRogersAZ

Sane Americans know the results.



11

**Proudly Smiling in AZ** @Sarah73770415 · Sep 16, 2021

Replying to @WendyRogersAZ



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**Wendy Rogers**

@WendyRogersAZ

Arizona Senator. Cc

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homeschool mom. .

#AmericaFirst

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This Tweet is from a suspended account. [Learn more](#)**Martin Gardner** @mglovesfun · Sep 16, 2021

...

Replying to @Sam07556462 and @WendyRogersAZ

No-one, of course.

2

**EnoughAlready** @DaustiniTheGr8t · Sep 16, 2021

...

Replying to @WendyRogersAZ

This is a great idea. Why wait until there are even results? That's just silly. I think high school juniors should throw a reunion right now. Why wait 10 years? No need to actually finish anything or wait that long.

1 73

**Don't miss what's happening**

People on Twitter are the first to know.

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## Exhibit 9







## Exhibit 10



## Exhibit 11





## Exhibit 12

*Society of Professional Journalists*

# CODE of ETHICS

## PREAMBLE

Members of the Society of Professional Journalists believe that public enlightenment is the forerunner of justice and the foundation of democracy. Ethical journalism strives to ensure the free exchange of information that is accurate, fair and thorough. An ethical journalist acts with integrity.

The Society declares these four principles as the foundation of ethical journalism and encourages their use in its practice by all people in all media.

## SEEK TRUTH AND REPORT IT

**Ethical journalism should be accurate and fair. Journalists should be honest and courageous in gathering, reporting and interpreting information.**

**Journalists should:**

- ▶ Take responsibility for the accuracy of their work. Verify information before releasing it. Use original sources whenever possible.
- ▶ Remember that neither speed nor format excuses inaccuracy.
- ▶ Provide context. Take special care not to misrepresent or oversimplify in promoting, previewing or summarizing a story.
- ▶ Gather, update and correct information throughout the life of a news story.
- ▶ Be cautious when making promises, but keep the promises they make.
- ▶ Identify sources clearly. The public is entitled to as much information as possible to judge the reliability and motivations of sources.
- ▶ Consider sources' motives before promising anonymity. Reserve anonymity for sources who may face danger, retribution or other harm, and have information that cannot be obtained elsewhere. Explain why anonymity was granted.
- ▶ Diligently seek subjects of news coverage to allow them to respond to criticism or allegations of wrongdoing.
- ▶ Avoid undercover or other surreptitious methods of gathering information unless traditional, open methods will not yield information vital to the public.
- ▶ Be vigilant and courageous about holding those with power accountable. Give voice to the voiceless.
- ▶ Support the open and civil exchange of views, even views they find repugnant.
- ▶ Recognize a special obligation to serve as watchdogs over public affairs and government. Seek to ensure that the public's business is conducted in the open, and that public records are open to all.
- ▶ Provide access to source material when it is relevant and appropriate.
- ▶ Boldly tell the story of the diversity and magnitude of the human experience. Seek sources whose voices we seldom hear.
- ▶ Avoid stereotyping. Journalists should examine the ways their values and experiences may shape their reporting.
- ▶ Label advocacy and commentary.
- ▶ Never deliberately distort facts or context, including visual information. Clearly label illustrations and re-enactments.
- ▶ Never plagiarize. Always attribute.

## MINIMIZE HARM

**Ethical journalism treats sources, subjects, colleagues and members of the public as human beings deserving of respect.**

**Journalists should:**

- ▶ Balance the public's need for information against potential harm or discomfort. Pursuit of the news is not a license for arrogance or undue intrusiveness.

- ▶ Show compassion for those who may be affected by news coverage. Use heightened sensitivity when dealing with juveniles, victims of sex crimes, and sources or subjects who are inexperienced or unable to give consent. Consider cultural differences in approach and treatment.
- ▶ Recognize that legal access to information differs from an ethical justification to publish or broadcast.
- ▶ Realize that private people have a greater right to control information about themselves than public figures and others who seek power, influence or attention. Weigh the consequences of publishing or broadcasting personal information.
- ▶ Avoid pandering to lurid curiosity, even if others do.
- ▶ Balance a suspect's right to a fair trial with the public's right to know. Consider the implications of identifying criminal suspects before they face legal charges.
- ▶ Consider the long-term implications of the extended reach and permanence of publication. Provide updated and more complete information as appropriate.

## ACT INDEPENDENTLY

**The highest and primary obligation of ethical journalism is to serve the public.**

**Journalists should:**

- ▶ Avoid conflicts of interest, real or perceived. Disclose unavoidable conflicts.
- ▶ Refuse gifts, favors, fees, free travel and special treatment, and avoid political and other outside activities that may compromise integrity or impartiality, or may damage credibility.
- ▶ Be wary of sources offering information for favors or money; do not pay for access to news. Identify content provided by outside sources, whether paid or not.
- ▶ Deny favored treatment to advertisers, donors or any other special interests, and resist internal and external pressure to influence coverage.
- ▶ Distinguish news from advertising and shun hybrids that blur the lines between the two. Prominently label sponsored content.

## BE ACCOUNTABLE AND TRANSPARENT

**Ethical journalism means taking responsibility for one's work and explaining one's decisions to the public.**

**Journalists should:**

- ▶ Explain ethical choices and processes to audiences. Encourage a civil dialogue with the public about journalistic practices, coverage and news content.
- ▶ Respond quickly to questions about accuracy, clarity and fairness.
- ▶ Acknowledge mistakes and correct them promptly and prominently. Explain corrections and clarifications carefully and clearly.
- ▶ Expose unethical conduct in journalism, including within their organizations.
- ▶ Abide by the same high standards they expect of others.

**The SPJ Code of Ethics is a statement of abiding principles supported by additional explanations and position papers (at [spj.org](http://spj.org)) that address changing journalistic practices. It is not a set of rules, rather a guide that encourages all who engage in journalism to take responsibility for the information they provide, regardless of medium. The code should be read as a whole; individual principles should not be taken out of context. It is not, nor can it be under the First Amendment, legally enforceable.**

## Exhibit 13

**From:** CAO Media - CAO  
**Sent:** Friday, September 30, 2022 3:55 PM  
**To:** Jordanc@thegatewaypundit.com  
**Subject:** Media Credential

---

Dear Mr. Conradson,

Thank you for applying for a Maricopa County Press Pass. This email is to notify you that you have been denied a press credential based on the following criteria which is listed on Maricopa.gov:

- #4: You (a) do not avoid real or perceived conflicts of interest and (b) are not free of associations that would compromise journalistic integrity or damage credibility. Therefore, you are not a bona fide correspondent of repute in your profession.

If you would like to appeal this decision, please reply to this email stating the reasons it should be reconsidered.

Further, any press conference about the 2022 Election will be streamed to a Maricopa County YouTube channel and you are welcome to view it.

Thank you,

Elections Command Center

## Exhibit 14



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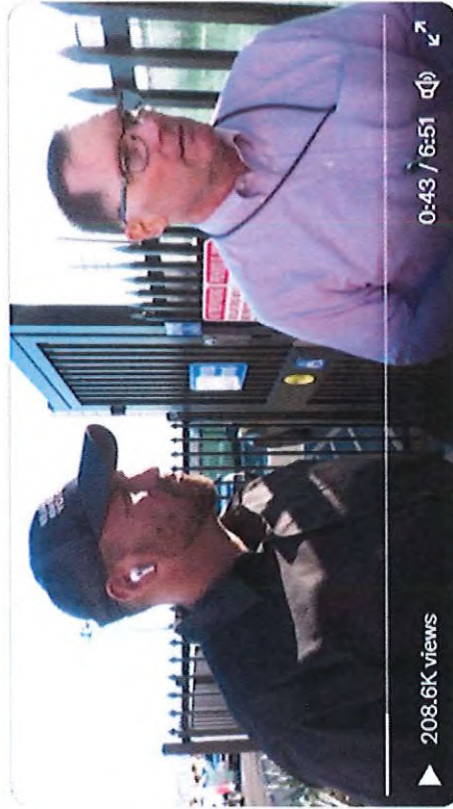
Tweet



Ben Bergquam - Real America's Voice (RAV-TV) News

@BenBergquam

Here's the video! Maricopa County elections official uses sheriff deputies to deny our 1st Amendment right and threatens to arrest arrest me and @ConradsonJordan of the Gateway Pundit. Simple question, what are they trying to hide? Is it incompetence or corruption? @RealAmVoice



208.6K views

0:43 / 6:51

7:25 PM · Nov 10, 2022 · Twitter for iPhone

3,105 Retweets 336 Quote Tweets 5,845 Likes



## Relevant people



Ben Bergquam - Real ...

@BenBergquam

Host of "Law & Border" on RAV News / Founder of Frontline America / Christian Conservative Husband & Father. [MyPillow.com](http://MyPillow.com). [TriggerALib.us](http://TriggerALib.us) promo code: FRONTLINE

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Jordan Conradson

@ConradsonJordan

#GatewayPundit #ElectionAudit

Correspondent America FIRST Phoenix, AZ

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## What's happening

US elections · LIVE

Arizona: Election news and updates



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## Exhibit 15





Jonathon Burns <[john@burns-law-firm.com](mailto:john@burns-law-firm.com)>

---

## Fwd: Re: Media Credential

1 message

---

**jordanc@thegatewaypundit.com** <[jordanc@thegatewaypundit.com](mailto:jordanc@thegatewaypundit.com)>  
To: [john@burns-law-firm.com](mailto:john@burns-law-firm.com)

Thu, Nov 10, 2022 at 4:51 PM

----- Original Message -----

Subject: Re: Media Credential

Date: 10.11.2022 15:31

From: [jordanc@thegatewaypundit.com](mailto:jordanc@thegatewaypundit.com)

To: CAO Media - CAO X <[CAOMedia@maricopa.gov](mailto:CAOMedia@maricopa.gov)>

On 30.09.2022 15:55, CAO Media - CAO X wrote:

Dear Mr. Conradson,

Thank you for applying for a Maricopa County Press Pass. This email is to notify you that you have been denied a press credential based on the following criteria which is listed on [Maricopa.gov](http://Maricopa.gov):

\* #4: You (a) do not avoid real or perceived conflicts of interest and (b) are not free of associations that would compromise journalistic integrity or damage credibility. Therefore, you are not a bona fide correspondent of repute in your profession.

If you would like to appeal this decision, please reply to this email stating the reasons it should be reconsidered.

Further, any press conference about the 2022 Election will be streamed to a Maricopa County YouTube channel and you are welcome to view it.

Thank you,

Elections Command Center

Hello,

I applied for a media credential recently and I was denied. The denial of my request was sent to [JordanC@thegatewaypundit.com](mailto:JordanC@thegatewaypundit.com). I am writing you to appeal this denial, as it violates my First Amendment rights to free speech and free press. Your denial of press credentials to me and my organization is a text-book impermissible content-based prior restraint of speech and in direct violation of my rights.

I will be coming in shortly to attend a press conference and receive my credentials.

Thank you,

Jordan Conradson

## Exhibit 16

Media & Telecom

3 minute read · December 2, 2021 10:53 PM MST · Last Updated a year ago

# Two Georgia election workers sue far-right website over false fraud allegations

By Peter Eisler



My View



Following



Saved

---



Dec 2 (Reuters) - Two Georgia election workers targeted by former U.S. President Donald Trump in a vote-rigging conspiracy theory have sued a far-right website that trumpeted the false story, alleging it incited months of death threats and harassment against them.

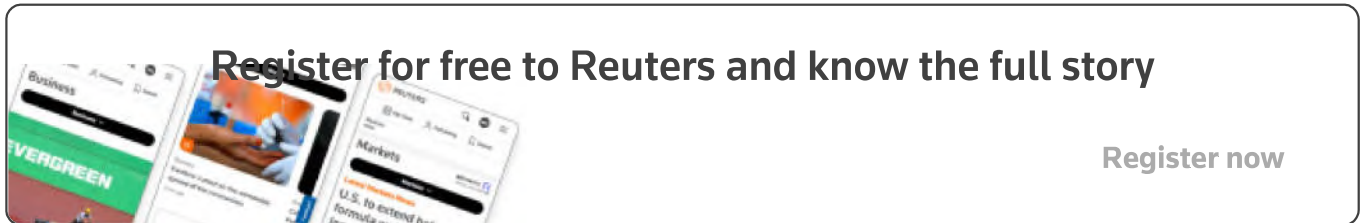
The defamation suit against The Gateway Pundit was filed Thursday by Wandrea “Shaye” Moss, a voter registration officer in the Fulton County elections office, and her mother, Ruby Freeman, who was a temp worker for the 2020 election. The women were featured in a Reuters report published Wednesday on their ordeal.

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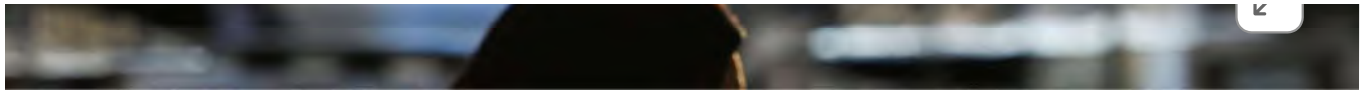
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writer Joe Hoft. It alleges they repeatedly published demonstrably false claims that portrayed the women as “traitors” who conspired to “steal the presidential election in Georgia.”



A lawyer for Jim Hoft and The Gateway Pundit did not immediately respond to a comment request Thursday morning. Joe Hoft did not respond to a comment request.

The lawsuit, filed in St. Louis Circuit Court, alleges that the Pundit’s “lies” about Freeman and Moss “devastated” their reputations and “instigated a deluge of intimidation, harassment, and threats that has forced them to change their phone numbers, delete their online accounts, and fear for their physical safety.” the suit says. Freeman went into hiding.



**[1/4]** An employee of the Fulton County Board of Registration and Elections processes ballots in Atlanta, Georgia, U.S., November 4, 2020. REUTERS/Brandon Bell/File Photo



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The lawsuit, which seeks unspecified damages, revolves around false allegations first raised by a volunteer Trump campaign attorney at a Dec. 3 hearing of Georgia state legislators. Freeman and Moss worked in heavily Democratic Fulton County, which includes Atlanta, where a strong showing by Democrat Joe Biden helped give him a narrow Georgia victory.

Trump, a Republican, and his surrogates falsely alleged that Freeman and Moss pulled “suitcases” full of fake ballots for Biden and processed them late at night on Election Day, Nov. 3, after most poll workers and election observers left.


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State officials including Republican Secretary of State Brad Raffensperger quickly and forcefully debunked the allegations, explaining that the “suitcases” were standard ballot containers and the votes were properly counted under the watch of an independent monitor and a state investigator.

The Gateway Pundit covered the false allegations in multiple stories, including one that identified Freeman by name with the headline: “What’s Up, Ruby? Crooked Operative Filmed Pulling Out Suitcases of Ballots in Georgia IS IDENTIFIED.” The Pundit identified Moss in another story.

The Pundit stories continued through the summer, even as multiple audits and reviews confirmed the accuracy of Fulton County’s vote results.

“I couldn't have imagined the lies that The Gateway Pundit would tell about me, pushing people to harass me and my family and to threaten us with violence,” Freeman said in a statement issued by her lawyers.



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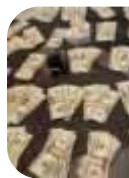
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## Exhibit 17

A REUTERS SPECIAL REPORT

## **Pro-Trump news site targets election workers, inspiring wave of menace**

The Gateway Pundit, which started as a tiny opinion blog, saw readership surge to nearly 50 million views a month as it amplified Donald Trump's false stolen-election claims. Reuters documented the impact: 25 election workers targeted by more than 100 violent threats or hostile messages citing the Pundit.

By PETER EISLER and JASON SZEP | Filed Dec. 3, 2021, noon GMT

*This story contains offensive language.*

**T**he story had a bombshell headline: “Thousands of fake votes” had been discovered in Madison, Wisconsin, two weeks after Democrat Joe Biden narrowly beat then-President Donald Trump in the state.

The bogus report from the far-right website Gateway Pundit drew attention to a set of initials – MLW – inscribed on what it claimed were “fake” ballots. Then a reader posted a comment on the story correctly identifying MLW: Maribeth L. Witzel-Behl, the Madison city clerk, whose duties include administering elections.

Other commenters soon called for Witzel-Behl's execution. She found one post especially unnerving. It recommended a specific bullet for killing her – a 7.62 millimeter round for an AK-47 assault rifle.

Witzel-Behl was stunned by the threats and the angry calls that poured into her office. Contrary to the story's insinuation that the initials meant the ballots were fake, in reality she and her staff wrote her initials on all absentee ballots, before they were given to voters, as a matter of policy.

Witzel-Behl is among 25 election officials and workers targeted by more than 100 threatening and hostile communications that have cited the Gateway Pundit since last year's election, according to a Reuters review of the materials, which included emails, letters and phone messages, as well as comments posted on the website's stories.

The messages targeted officials and staff in four jurisdictions that featured repeatedly in false or misleading Pundit reports on voter-fraud claims: the Wisconsin cities of Madison and Milwaukee; Fulton County, Georgia; and Maricopa County, Arizona.

At least five of the officials, including Witzel-Behl, received threats they considered serious enough to report to law enforcement. Among those targeted were a municipal election director in Milwaukee and a Republican supervisor in Maricopa County. The targets also included Ruby Freeman and Wandrea “Shaye” Moss, a mother and daughter who staffed a ballot counting operation in Fulton County; their ordeal was detailed this week by Reuters.

After Gateway Pundit ran an Aug. 14 story about them, a commenter posted below the piece: “The two women are traitors to the country and should be hung by the neck until dead.”

Two additional officials, a Fulton County election commissioner and another Maricopa county supervisor, blamed the Gateway Pundit for inciting serious threats of violence they received after the site implicated the officials in baseless claims of election-rigging. Those threats did not reference the website by name.

*“The two women are traitors to the country and should be hung by the neck until dead.”*

THREAT TO GEORGIA ELECTION WORKERS POSTED UNDER A GATEWAY PUNDIT STORY

Most of the 25 officials received harassing messages that were less violent but often intimidating, racist or misogynistic. Many messages accused officials of treason, for instance, or called for their imprisonment.

The threats and harassment inspired by the Gateway Pundit illustrate the central role of disinformation in a campaign of fear being waged by Trump supporters against the frontline administrators of American democracy.

“The Gateway Pundit brought your betrayal of Wisconsin and America to my attention,” said one threat emailed to Claire Woodall-Vogg, the Milwaukee elections director. “I hope you know there are consequences for your actions. I know a lot of information about you. I will have to think about what comes next.”

The harassing communications linked to the Gateway Pundit are among more than 800 menacing messages to election officials documented by Reuters this year, including more than 100 threats that legal experts said could meet the legal threshold for federal criminal prosecution. Such threats are considered crimes if they instill fear of imminent violence or death. Law enforcement, however, has held almost no one accountable.



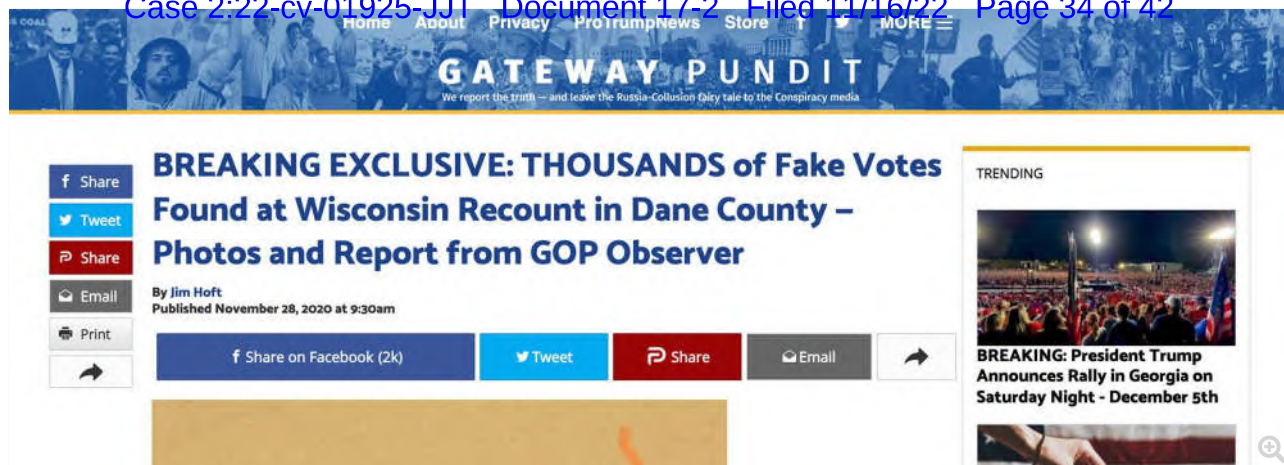
Threatening email sent to Milwaukee Elections Director Claire Woodall-Vogg after several Gateway Pundit stories suggested she conspired to rig the city's 2020 voting against Donald Trump.

In more than 10% of those 800 messages, the harassers cited the Gateway Pundit as the source of the information that caused them to lash out at election officials. No other media outlet or social-media platform was mentioned more than a handful of times.

The Federal Bureau of Investigation declined to comment on whether it was investigating any of the Gateway Pundit-inspired messages but said it “takes all threats of violence seriously.” No arrests have been made. The Department of Justice, which in June launched a task force to address threats against election workers, did not respond to a comment request.

The Gateway Pundit has emerged as a major player in an expanding far-right media universe that includes TV broadcasters One America News Network and Newsmax, along with the video-sharing site BitChute and social media platforms Parler and Gab. Since the 2020 election, the Pundit has bolstered Trump’s false stolen-election narrative with coverage that generated outrage and helped grow its audience.

The Pundit’s U.S. web traffic approached 50 million monthly visits in the weeks after Trump’s November loss, up from about 15 million a year earlier, according to Similarweb, an internet-traffic intelligence service. More recently – from July through September – the audience settled at an average of 33 million monthly visits. That’s nearly double the 17 million monthly visits averaged over the same period by the website for MSNBC, the cable news channel known for left-leaning hosts.



Screenshot of a Gateway Pundit story targeting Maribeth Witzel-Behl. Captured Nov. 28, 2020 at 16:54 GMT. Source: Internet Archive

The Gateway Pundit describes itself as a publisher of news and commentary. Launched in 2004 as an opinion blog, it established itself as one of Trump’s most dogged promoters in the 2016 presidential race. During the campaign, Trump regularly cited or retweeted Gateway Pundit stories. Once elected, he quickly granted the site White House press credentials.

A Trump spokesperson did not respond to requests for comment.

The U.S. Constitution’s free-speech and free-press provisions give news outlets – even those that publish false stories that spur threats – broad protections against any legal liability, especially criminal charges. Media can be sued for defamation, but such cases can be especially challenging to win for public officials, including many election workers and administrators.

Officials must prove not only reputational damage but "actual malice." That standard, established by the U.S. Supreme Court, means plaintiffs must prove not only that they were harmed by the publication of false information, but also that the publisher either knew the information was false or operated with “reckless disregard for the truth,” said Roy Gutterman, a Syracuse University media law professor.

“Defamation is difficult to win for everybody, but it’s more difficult for public figures like most of these plaintiffs,” Gutterman said.

The Gateway Pundit currently faces at least three defamation suits filed by people who allege they faced numerous threats after being vilified in false stories. The first two suits don’t involve public officials; the site is contesting both, asserting it broke no laws and had no responsibility for the threats of violence. The third was filed yesterday by Freeman and Moss, the election workers in Georgia. A lawyer for Gateway Pundit had no comment on that suit.

The Pundit has faced some commercial blowback for its false and incendiary content. In September, it lost a major revenue source when Google stopped placing ads on the site, citing its publication of “demonstrably false” election stories. Over the previous 10 months, the Pundit earned an estimated \$1.3 million from ads placed through Google’s AdSense program, according to an analysis by the Center for Countering Digital Hate, which combats online extremism.

The Pundit has retained other advertising, mostly “clickbait” promotions placed by ad networks on behalf of hundreds or thousands of companies and products. The site gets paid based on the number of ads clicked.

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Reuters asked five ad networks that have appeared prominently on Gateway Pundit if they were concerned about its content. Two, Jeeng and ZergNet, said they reviewed the site in response to the Reuters inquiry and decided to stop placing ads on it. Two others, Revcontent LLC and MGID, said they are reconsidering their relationships with the site. A fifth, LockerDome, did not respond to comment requests.

Gateway Pundit's owner and editor, Jim Hoft, is an Iowa native with a college biology degree and no previous journalism background. Hoft writes many of the articles, along with his twin brother, Joe Hoft, and a half-dozen or so contributors. After a mass shooting in 2016 killed 49 people at Pulse, a gay nightclub in Orlando, Florida, Hoft wrote a Breitbart News column in which he came out as gay. Noting that the shooter sympathized with radical Islamist groups, he argued that the best way to protect gay people from more attacks was to elect Trump because he would be tough on extremists.

Jim Hoft did not respond to interview requests sent to him and his lawyer. Joe Hoft also had no comment.



Gateway Pundit was given White House press credentials after Trump's election as president. Here, editor Jim Hoft listens as Trump speaks at a 2019 meeting with conservative social media figures. REUTERS/Carlos Barria

"We never support any violence," Jim Hoft said in an August deposition for a lawsuit. The suit alleged that his site defamed and incited threats against a former staffer of Dominion Voting Systems, a voting equipment maker often featured in the Pundit's coverage. "We report on different individuals every day, and we always consider their safety."

Hoft is seeking reader support through several online fundraising campaigns on GiveSendGo, a crowdfunding site. Those campaigns have raised more than \$250,000 to date, according to the site. On the Pundit site, Hoft urges readers to show support by buying subscriptions. "There's a battle for survival of the Gateway Pundit," he says in the message.

## "We're coming for you, Claire"

The threat that came to Milwaukee election chief Woodall-Vogg – citing the Gateway Pundit on her "betrayal" – was sent to the private email address she reserves for friends and family. The subject line: "Hello Marxist Bitch."

The Pundit began targeting Woodall-Vogg days after the election, when she informed the Wisconsin Elections Commission that a flash drive used with the city's vote-tabulating machines was inadvertently left at a processing center on election night. The drive was retrieved within minutes and was never unattended, she explained in a letter to the commissioners. The county district attorney reviewed the matter and found no evidence of tampering.



The Gateway Pundit responded with a story headlined: “Milwaukee Elections Chief Lost Elections Flash Drive in Morning Hours of November 4th When Democrats Miraculously Found 120,000 Votes for Joe Biden.”

Woodall-Vogg began getting angry emails almost immediately. The messages continued as multiple audits and reviews confirmed Milwaukee’s results, which had helped Biden win Wisconsin.

In late July, another Pundit headline sparked a new wave of intimidation: “BREAKING EXCLUSIVE: Uncovered Email Shows Milwaukee Elections Executive Woodall-Vogg Laughing About the Election Steal on Election Night.” The evidence: a joking email exchange between Woodall-Vogg and Ryan Chew, a staffer with The Elections Group, a nonprofit organization that provided free pre-election guidance to localities on improving 2020 voting processes.

Shortly after Milwaukee’s final votes were reported late on election night, Chew wrote: “Damn, Claire, you have a flair for drama, delivering just the margin needed at 3:00 a.m. I bet you had those votes counted at midnight and just wanted to keep the world waiting!” Woodall-Vogg replied: “Lol. I just wanted to wait to say I had been awake for a full 24 hours.”

Chew and Woodall-Vogg told Reuters the exchange was an unfortunate but meaningless joke. Chew said it would have been “absurd” for Woodall-Vogg to stay up late to add drama. “That absurdity was the essence of the joke,” Chew said.

The Pundit characterized the exchange as evidence that Woodall-Vogg was part of a multi-state fraud to manufacture a late-night “drop” of Biden votes. Woodall-Vogg’s inbox exploded with more than 70 furious messages. Many cited the Pundit. Some called for her execution. One asked if she had private security. Some people left threatening voicemails. One said: “We’re coming for you, Claire.”

Woodall-Vogg left town with her two children, working remotely for 10 days. She referred a half-dozen threatening messages to Milwaukee police. The department told Reuters it had referred the communications to the FBI after police determined they could not be prosecuted under state or local law.

0:00 / 0:20

Click to hear audio of a menacing voicemail left for Claire Woodal-Vogg

At the elections office, security glass and other protections are being added.

“The threats where I truly was concerned – the ones specific to me and my family – those didn’t happen until the Gateway Pundit article,” she said.

## ‘Tick, Tick, Tick’

In June, Vernetta Nuriddin, a Democratic member of Georgia’s Fulton County election board, was starting her summer vacation when her inbox filled with two dozen hostile emails. One subject line: “Tick, Tick, Tick.”

“Not long now....,” the email read.

Nuriddin said she found the email “frightening,” suggesting a bomb or other “imminent danger.”

**From:** Brian Lohman <[REDACTED]@gmail.com>  
**Sent:** Tuesday, June 29, 2021 11:12:37 AM  
**To:** [REDACTED]@live.com <[REDACTED]@live.com>  
**Subject:** Tick, Tick, Tick

Not long now...

Message sent to Georgia official Vernetta Nuriddin, after her name and email address were reported by Gateway Pundit.

That morning, the email addresses of Nuriddin and other board members were published in a Gateway Pundit report that said they were named in an activists' lawsuit seeking a review of county absentee ballots. The suit was later dismissed.

Other outlets had reported on the suit days earlier, but the hostile messages to Nuriddin and other board members didn't start until the Pundit published their email addresses. Some of the messages cited the Gateway Pundit specifically; others, including the tick-tick email, did not. Nuriddin, who left the board this summer when her four-year term ended, said the Pundit's reports often sparked messages from "people wishing the absolute worst on you, who don't even know you."

Nuriddin referred the tick-tick email to the Fulton County Police Department. It dropped the case after deciding the message was not an "articulated threat" that constituted a crime under Georgia law, said Fulton's chief, Wade Yates.



Vernetta Nuriddin is one of many Fulton County election officials who came under attack after a Gateway Pundit story.  
 REUTERS/Elijah Nouvelage

Reuters identified the sender of the "Tick, Tick" threat: Brian Lohman, of Jacksonville, Florida. He was among nine people who said in interviews for [a Nov. 9 Reuters report](#) that they had harassed or threatened election officials.

Lohman told Reuters he didn't mean to suggest a bomb. He said he had read that Nuriddin was named in the lawsuit over Fulton County ballots and meant to suggest time was running out before she "had to go in front of a judge." He declined to say whether he got the news – or Nuriddin's email address – from the Gateway Pundit story.

After the 2020 presidential election, the Pundit ran a slew of stories alleging voter fraud in Arizona's Maricopa County, which includes Phoenix, the state's largest city.

Many of these reports were false, including a May 9 article claiming the county deleted voting-machine data needed for a state audit. An hour after the story was published, county Board of Supervisors Vice Chair Bill Gates and other members received an email with a link to the article.

"You dirty mother f\*\*\*ing ass holes," the subject line read. "You all have eyes in the back of your heads?" the message continued. "People have a limit."

*"People are going to be coming and visiting the homes of the board of supervisors and basically executing their families. Should be fun."*

VOICEMAIL LEFT FOR MARICOPA COUNTY SUPERVISOR CLINT HICKMAN

The Pundit continued publishing stories with false voter-fraud claims as multiple audits confirmed the results and Maricopa supervisors defended their accuracy. On Aug. 9, an email landed in the supervisors' public inbox, asking: "Hanging or Guillotine?" The message cited a debunked Gateway Pundit story that claimed completed ballots from the 2020 election were shredded before they were counted.

Over the next month, Gates and his fellow supervisors would get at least nine more emails from the same sender, several of them citing Gateway Pundit stories and all repeating the warning: "TREASON Hanging or Guillotine?"

The supervisors were already on edge. Gates' fellow Republican board member, Clint Hickman, had received a voicemail on Aug. 4 that warned: "People are going to be coming and visiting the homes of the board of supervisors and basically executing their families. Should be fun."



Maricopa County Supervisor Bill Gates. The Arizona county's election operation was the subject of a series of false Pundit stories. REUTERS/Caitlin O'Hara

The voicemail did not mention the Gateway Pundit. But Hickman and Gates said they blamed the Pundit's bogus reporting for inspiring many of the threats and harassing messages against board members. "There's no question this blog has generated threats toward me, my colleagues,

and even my family's 77-year-old business," Hickman said, adding that the site conjures "ridiculous scenarios" with "no fact-checking."

Gates told Reuters he has referred about a dozen hostile messages to police.

The Maricopa County Sheriff's Office said it has been assessing threats against the supervisors. It has made no arrests.

## Threats of hanging and shooting

Days after the election, Gateway Pundit posted a false story that targeted election officials in Rock County, Wisconsin, about an hour south of Madison.

The site reported that a software glitch led to 10,000 votes being "moved" from Trump to Biden "in just one Wisconsin county." Such glitches, it said, were a Democratic scheme to "steal" the race.

That article was tweeted by Eric Trump, the former president's son. He did not respond to an interview request sent through the former president's office.

In reality, the vote count never changed. The Associated Press had made an error in an election-results table it published and quickly corrected it.

The next morning, County Clerk Lisa Tollefson got a call about the story around 7 a.m. and raced to work, finding the phone lines jammed with enraged Trump voters yelling at her staff. The furor lasted four days, and "was bad enough that we let the sheriff know, and he put protection on us," Tollefson said.

Two weeks later, on Nov. 28, the Gateway Pundit turned its sights on Maribeth Witzel-Behl, the clerk in Madison, Wisconsin, whose initials appeared on the thousands of absentee ballots that the Pundit had wrongly characterized as "fake."

Concerned by the story's inaccuracies and the threats they provoked, she consulted with City Attorney Michael Haas, who sent Hoft an email requesting the Pundit correct the piece and remove the threatening comments.

"If there are additional threats or actual harassment against our employees we will be holding you accountable," Haas wrote.

The next day, the story was updated: The references to "fake votes" were changed to "suspect votes." All the comments also were removed from the page. The story was marked as "updated," but contained no correction.

Joe Hoft, the brother of site founder Jim Hoft, wrote a follow-up story about Haas's warning. Haas, he asserted, was attacking the Pundit's free-speech rights.

"We found the City Attorney's response threatening," he wrote.

*Editor's note: This story was updated to correct a misspelling of Jim Hoft's name in the penultimate paragraph, and to correctly state in paragraph 27 that Trump was elected (not re-elected) in 2016.*

## Facebook's struggle with Gateway Pundit highlights challenge of containing disinformation

he Gateway Pundit, a far-right news site, has used its Facebook page - with more than 630,000 followers - to post bogus stories alleging the 2020 election was stolen from former President Donald Trump. Some commenters responded with threats of violence.

After Gateway Pundit posted a June story on Facebook that included debunked claims of voter fraud in Arizona, a commenter said the governor and secretary of state should be “fed feet first through a woodchipper.” A story featuring false claims of vote-rigging in Fulton County, Georgia, drew comments on Facebook calling for an election worker to be hanged or “shot for treason.”

For years, Facebook has imposed sanctions on Gateway Pundit’s account to limit the spread of its misinformation. But Gateway Pundit still uses its Facebook page to amplify its reporting and raise money: The page features a prominent appeal asking readers to buy subscriptions to support its “battle for survival.”

### Arizona officials should be “fed feet first through a woodchipper”

Facebook commenter reacting to a baseless Gateway Pundit story alleging voter fraud

Gateway Pundit’s continuing presence on Facebook illustrates the platform’s worldwide struggle to stop the spread of disinformation and to balance content-policing with free-speech concerns. Facebook has taken a barrage of criticism this year from critics and a company whistleblower who say its practices stoke anger and division to increase user engagement.

In a statement to Reuters, Facebook said it seeks to label misinformation and “reduce its spread.” The company uses fact checkers and artificial intelligence to identify false or misleading material and warns readers who try to share it. Facebook partners with about 80 organizations, including Reuters, to independently fact-check content that appears on its site.

Facebook said repeat offenders, such as the Gateway Pundit, are subject to tougher sanctions, including having their posts pushed to the bottom of users’ news feeds (the lists of posts they see), and being barred from Facebook’s content-promotion services.

But Facebook almost never removes the offending posts or shuts down the pages – that happens only in rare circumstances, such as posts pushing COVID misinformation, the company says. Sites that directly threaten violence also may be shut down, but account holders are not held responsible for comments on their pages.

Twitter has taken a more aggressive approach with Gateway Pundit, permanently suspending the @gatewaypundit account of Jim Hoft, the site’s founder and editor, as well as the account of his twin brother, Joe Hoft, a writer.

Jim Hoft declined a request for comment; Joe Hoft did not respond to comment requests.

Facebook and Twitter both have been blasted by right-leaning politicians for what they call censorship of conservative voices. Jim Hoft testified in a 2018 congressional hearing that his site’s traffic from Facebook had tanked after the platform imposed restrictions on the spread of the Pundit’s content, saying such sanctions make “book burning” look benign.

Yet Gateway Pundit’s traffic has boomed: In the wake of the 2020 election, it peaked at nearly 50 million visits a month, according to one estimate, illustrating the power of viral disinformation. Reuters found the site’s often-debunked election-fraud claims were cited in about 100 of more than 800 threatening or harassing messages sent to election officials since last November.



**Facebook has long recognized Gateway Pundit as a source of false and divisive content. A July 2019 internal report on “potential misinformation and polarization risks” listed the site as one of Facebook’s “common misinfo offenders.”**

Facebook has long recognized Gateway Pundit as a source of false and divisive content. A July 2019 internal report on “potential misinformation and polarization risks” listed the site as one of Facebook’s “common misinfo offenders.” The report was among a cache of documents provided to the U.S. Securities and Exchange Commission and Congress by Frances Haugen, a former Facebook product manager who left the company in May and has been a leading public critic of its practices.

Reuters identified a dozen Gateway Pundit stories on Facebook that contained baseless election-fraud claims, two of which Facebook labeled as containing false information. Under four of those stories, nine Facebook users called for the execution of election workers or officials. Only one of those four stories was flagged by Facebook for containing false information.

In August, Gateway Pundit reported that a Milwaukee official had been threatened after being featured in Pundit stories alleging voter fraud. The result? Even more threats. On the site’s Facebook page, one reader commented: “There is only one punishment acceptable for traitors, being drawn and quartered.”

**Campaign of Fear**



By Peter Eisler and Jason Szep, with additional reporting by Linda So

Photo editing: Corinne Perkins

Art direction: John Emerson

Edited by Brian Thevenot



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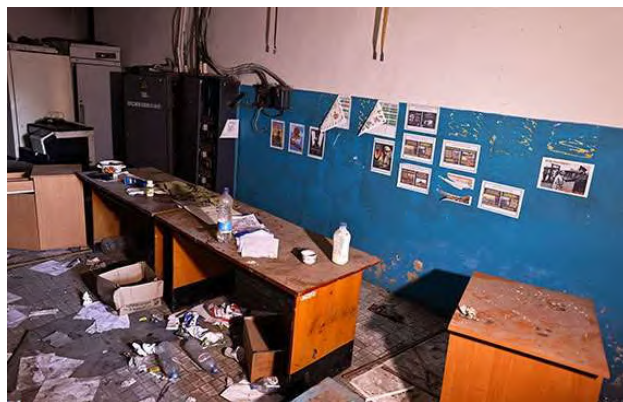
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When Russian troops fled the Ukrainian town of Balakliia last month, they left behind thousands of documents that show in unprecedented detail the inner workings of the Russian war machine.

## Exhibit 18





My View



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8 minute read · November 6, 2022 4:04 AM MST · Last Updated 9 days ago

# 'Kill them': Arizona election workers face midterm threats

By Linda So, Peter Eisler and Jason Szep



**[1/3]** Eliza Luna, a ballot designer with the Maricopa County Elections Department, counts ballots for the Arizona Presidential Preference Election at the Maricopa County Tabulation and Election Center in Phoenix, Arizona, U.S., March 17, 2020.  
REUTERS/Cheney Orr/File Photo Read more

< 1 2 3 >



Nov 6 (Reuters) - Election workers in Arizona’s most fiercely contested county faced more than 100 violent threats and intimidating communications in the run-up to Tuesday’s midterms, most of them based on election conspiracy theories promoted by former President Donald Trump and his allies.

The harassment in Maricopa County included menacing emails and social media posts, threats to circulate personal information online and photographing employees arriving at work, according to nearly 1,600 pages of documents obtained by Reuters through a public records request for security records and correspondence related to threats and harassments against election workers.

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Between July 11 and Aug. 22, the county election office documented at least 140 threats and other hostile communications, the records show. “You will all be executed,” said one. “Wire around their limbs and tied & dragged by a car,” wrote another.

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The documents reveal the consequences of election conspiracy theories as voters nominated candidates in August to compete in the midterms. Many of the threats in Maricopa County, which helped propel President Joe Biden to victory over Trump in 2020, cited debunked claims around fake ballots, rigged voting machines and corrupt election officials.

## Latest Updates

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Other jurisdictions nationwide have seen threats and harassment this year by the former president's supporters and prominent Republican figures who question the legitimacy of the 2020 election, according to interviews with Republican and Democratic election officials in 10 states.

The threats come at a time of growing concern over the risk of political violence, highlighted by the Oct. 28 attack on Democratic House Speaker Nancy Pelosi's husband by a man who embraced right-wing conspiracy theories.

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election workers, according to previously unreported incidents documented in the emails and interviews with county officials.

A number of temporary workers quit after being accosted outside the main ballot-counting center following the Aug. 2 primary, Stephen Richer, the county recorder who helps oversee Maricopa's elections, said in an interview. One temporary employee broke down in tears after a stranger photographed her, according to an email from Richer to county officials. The unidentified worker left work early and never returned.

She wasn't a political person, she told Richer. She just wanted a job.

On Aug. 3, strangers in tactical gear calling themselves "First Amendment Auditors" circled the elections department building, pointing cameras at employees and their vehicle license plates. The people vowed to continue the surveillance through the midterms, according to an Aug. 4 email from Scott Jarrett, Maricopa's elections director, to county officials.

"It feels very much like predatory behavior and that we are being stalked," wrote Jarrett.

## **ATTACKS PERSISTED**

Since the 2020 election, Reuters has documented more than 1,000 intimidating messages to election officials across the country, including more than 120 that could warrant prosecution, according to legal experts.

Many officials said they had hoped the harassment would wane over time after the 2020 results were confirmed. But the attacks have persisted, fueled in many cases by right-wing media figures and groups that continue without evidence to cast election officials as complicit in a vast conspiracy by China, Democratic officials and voting equipment manufacturers to rob Trump of a second presidential term.

In April, local election officials in Arizona participated in a drill simulating violence at a polling site in which several people were killed, according to an April 26 email from Lisa Marra, the president of the Election Officials of Arizona, which represents election administrators from the state's 15 counties. The drill aimed to help officials prepare for Election Day violence, and left participants "understandably, disturbed" said the email to more than a dozen local election directors.

In a statement, Marra said: "This is just one other tool we can use to ensure election safety for all."

message boards calling for workers to be executed or hung. Some messages sought officials' home addresses, including one that promised "late night visits." Employees were filmed arriving and leaving work, according to emails among county officials.

Two days after the Aug. 2 primary election, the county's information security officer emailed the FBI pleading for help.

"I appreciate the limitations of what the FBI can do, but I just want to underline this," wrote Michael Moore, information security officer for the Maricopa County Recorder's Office. "Our staff is being intimidated and threatened," he added. "We're going to continue to find it more and more difficult to get the job done when no one wants to work for elections."

A special agent for the FBI acknowledged the agency's limitations, according to the emails. "As you put it, we are limited in what we can do - we only investigate violations of federal law," the FBI agent responded in an Aug. 4 email. Reporting threats to local law enforcement is "the only thing I can suggest," the agent wrote, "even if at this point it has not resulted in any action."

The FBI declined to comment on the agent's response to Moore. It also declined to confirm or deny the existence of ongoing investigations into the threats.

Moore did not respond to requests for comment, but Richer, his boss, said in a statement that he greatly appreciated the FBI's partnership and vigilance. "This is an inherently emotional topic - communications of the most vile nature have been repeatedly sent to my team," the statement said.

One anonymous sender using the privacy-protective email service ProtonMail sent "harassing emails" for almost a year, Moore, wrote in an Aug. 4 email to the FBI. One message warned Richer that he'd be "hung as a traitor."

"I'd like to have a black and white poster in my office of you hanging from the end of a rope," the sender wrote.

The harassment and threats were affecting the mental health of election workers, Jarrett wrote in his Aug. 4 memo. "If our permanent and temporary staff do not feel safe, we will not be able (to) recruit and retain staff for upcoming elections."

In all, county officials referred at least 100 messages and social media posts to FBI and state counter-terrorism officials. Reuters found no evidence in the correspondence that officials saw any of the

the territory of a prosecutable threat.

The U.S. Justice Department declined to comment on specific ongoing investigations but said it has opened dozens of cases nationwide involving threats to election workers. Eight people face federal charges for threats, including two who targeted Maricopa County officials.

DOJ spokesperson Joshua Stueve said that while the “overwhelming majority” of complaints the agency receives “do not include a threat of unlawful violence,” he said the messages are “often hostile, harassing, and abusive” towards election officials and their staff. “They deserve better,” Stueve said.

## ONLINE INSPIRATION

Misinformation on right-wing websites and social media fueled much of the hostility towards election staff, according to the internal messages among Maricopa officials.

On July 31, the Gateway Pundit, a pro-Trump website with a history of publishing false stories, reported that a Maricopa County election official allowed a staff technician to gain unauthorized access to a computer server room, where he deleted 2020 election data that was set to be audited. The website published the names and photos of the official and the tech; readers responded with threats against both.

“Until we start hanging these evil doers nothing will change,” one reader wrote in the Gateway Pundit’s comment section. Another suggested death for the computer tech identified in the story: “hang that crook from (the) closest tree so people can see what happens to traitors.”

The tech hadn’t deleted anything, according to a Maricopa spokesperson. The county election director had instructed him to shut down the server for delivery to the Arizona State Senate in response to a subpoena. A review of server records confirmed nothing was deleted, the spokesperson told Reuters, and all data from the 2020 election had been archived and preserved months earlier.

Election employees singled out in Gateway Pundit stories “tend to see a surge in being targeted” for threats and harassing messages, Moore, the county’s information security officer, said in a Nov. 18, 2021, email to the FBI. Those stories, he added, are often “flagrantly inaccurate.” [A Reuters investigation](#) published last December found the Gateway Pundit cited in more than 100 threatening and hostile communications directed at 25 election workers in the year after the 2020 election.

allegations against Maricopa officials. In August, right-wing provocateur Charlie Kirk posted a comment in Telegram accusing Richer, the county recorder, and “his cronies” of making Arizona’s elections “a Third-World circus.”

“When do we start hanging these people for treason?” one reader commented. Another simply added, “Kill them.”


The Gateway Pundit and Kirk did not respond to requests for comment.

After a security assessment by the U.S. Department of Homeland Security in late 2021, Maricopa strengthened doors, added shatterproof film on windows and bought more first aid kits, according to the documents.

But the harassment has continued.

“This goes beyond just onsite security. It is a mental health issue,” Jarrett, the county elections director, wrote in an email to county officials two days after the primary.

“I very much respect freedom of speech and welcome public scrutiny,” Jarrett added. “However, allowing this predatory activity to occur is damaging and threatening the viability of the elections department.”



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Reporting by Linda So, Peter Eisler and Jason Szep; Editing by Suzanne Goldenberg



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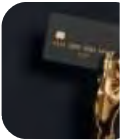
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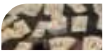
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United States

## Siebel Newsom, wife of California governor, accuses Harvey Weinstein of rape

Legal · November 15, 2022 · 10:14 AM MST

Jennifer Siebel Newsom, a documentary filmmaker and the wife of California's governor, testified on Monday that former film producer Harvey Weinstein raped her in 2005 when she was trying to build a career as a producer and actor.

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Legal

**Trump, U.S. win dismissal of Michael Cohen lawsuit over alleged book retaliation**

November 14, 2022

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United States

**Trump defied Jan 6 committee subpoena, panel says**

5:39 AM MST

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**Oscar-winner Paul Haggis must pay total of \$10 million in civil rape case**

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## Exhibit 19



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## **VICE** News

# Arizona Election Workers Are Being Bombarded With Threats

“You will all be executed,” read one communication to Maricopa County election officials.

**PB** By [Paul Blest](#)

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November 7, 2022, 9:26am





ELECTIONS WORKERS INSPECT MAIL-IN BALLOTS AS THEY SET UP AND SORT MAIL-IN BALLOTS PRIOR TO TABULATION AT THE MARICOPA COUNTY TABULATION AND ELECTION CENTER ON NOVEMBER 06, 2022 IN PHOENIX, ARIZONA. (JUSTIN SULLIVAN/GETTY IMAGES)

Election workers in Arizona's largest county received more than 100 intimidating messages and threats of violence during a one-month period in the lead-up to the midterm elections this year, Reuters reported Sunday.

Maricopa County election officials received at least 140 such threats between July 11 and August 22, according to more than 1,600 pages of documents obtained by Reuters via public records request. The period covered in the request included the state's contentious August 2 primary, and many of the threats appear to have been fueled by coverage from far-right blogs and pundits.



The threats to Maricopa County officials offer just a glimpse of the many threats faced by election workers all over the country this year, after two years of Republican politicians boosting the lie that the 2020 election was stolen from former President Donald Trump.

“You will all be executed,” said one communication to Maricopa County election officials, according to Reuters. In a reply to an August Telegram post by Turning Point USA founder Charlie Kirk accusing Maricopa County’s Republican county recorder and his “cronies” of turning the county’s elections into a “Third World Circus,” one user reportedly responded: “Kill them.”

A temporary election employee reportedly broke down in tears and effectively quit on the spot after she was photographed outside of a ballot-counting center following the August primary. And on Aug. 3, a group of people wearing tactical gear and calling themselves “First Amendment Auditors” picketed outside of the elections department’s offices and pointed cameras at employees and their license plates, Reuters reported Sunday.

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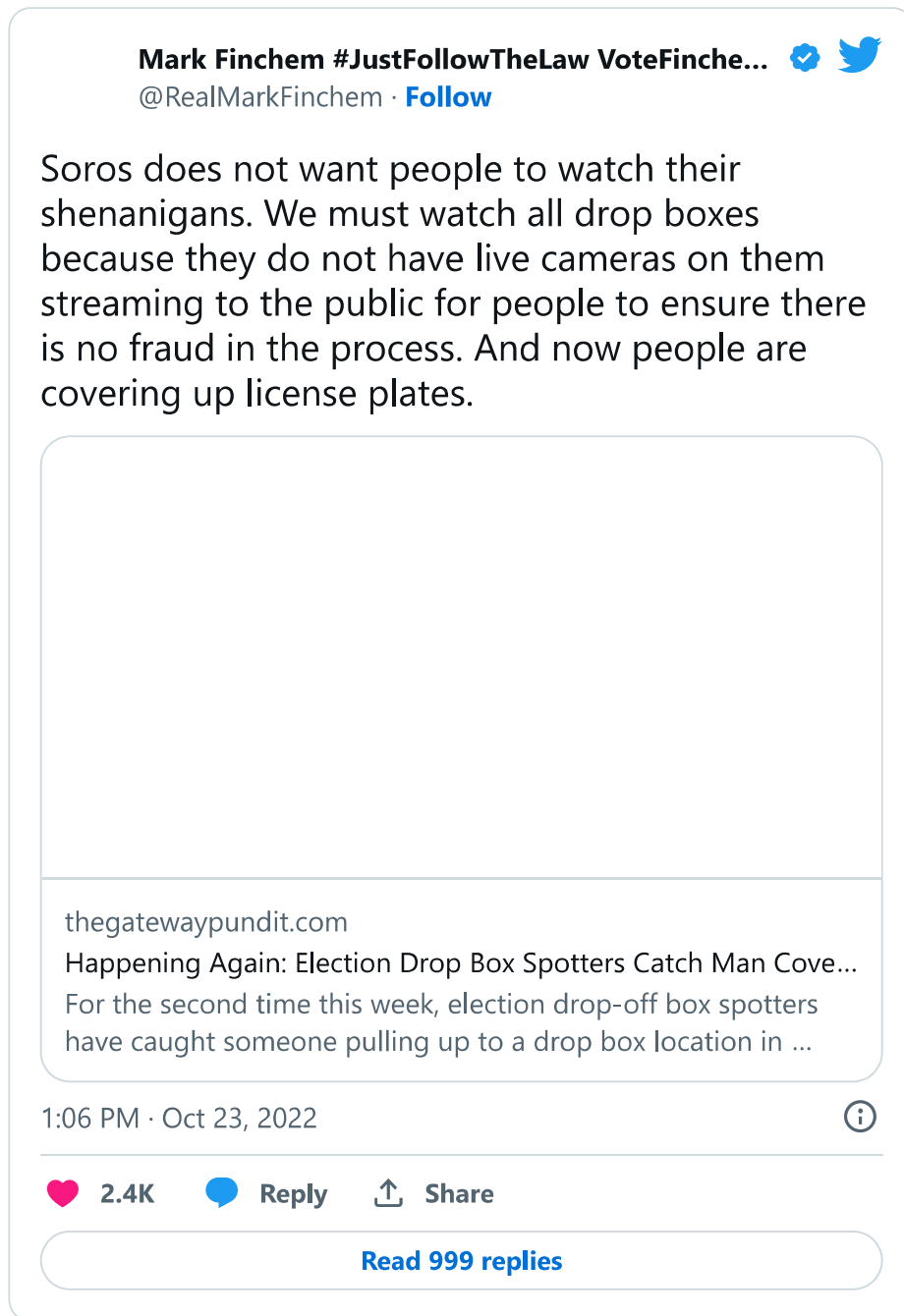
“It feels very much like predatory behavior and that we are being stalked,” the county elections director wrote in an Aug. 4 email to Maricopa County officials.

In another instance, the pro-Trump misinformation blog Gateway Pundit published the names and photos of an election official and a technician the blog claimed had conspired to “illegally delete elections files” in April 2021—after which both the technician and the election official received threats, Reuters reported.

“We talk, shout, cry and scream for what?” one commenter on the post said. “Until we start hanging these evil doers, nothing will change.”

The threats in Arizona have only continued to grow as the election has drawn closer. Armed vigilantes have posted up near ballot drop boxes during early voting claiming to monitor the boxes for illegal activity. They were encouraged by GOP Secretary of State nominee Mark Finchem, a self-described Oath Keeper, QAnon-adjacent state legislator and hard-line election denier.

we must watch all drop boxes because they do not have live cameras on them streaming to the public for people to ensure there is no fraud in the process,” Finchem tweeted.



Last week, a federal judge ordered them to stay at least 250 feet away from the boxes.

Maricopa County is expected to be pivotal in several races Tuesday, including the state’s U.S. Senate race, gubernatorial election, and race for secretary of state to be Arizona’s

they won't accept the results of the election if they lose.

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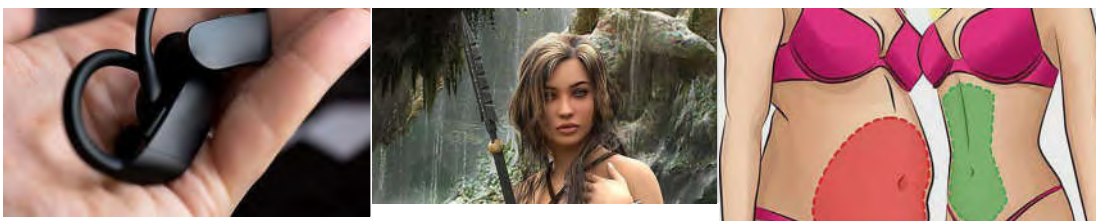
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## Exhibit 20

# State Senator Michelle Ugenti Rita Has TGP Reporter Removed From Trump Rally And ARRESTED after She is Booed Off Stage (VIDEO)

By **Jordan Conradson**

Published July 24, 2021 at 11:34pm

3037 Comments



**On Saturday, President Trump spoke at the Rally to Protect Elections in Phoenix, Arizona.**







## LIVE STREAM VIDEO: President Trump Speaks at TPUSA's "Rally to Protect Our Elections" in Phoenix, AZ – 6 PM ET ...More: 200,000 Watching Live on RSN

President Donald J. Trump speaks at a 'Rally To Protect Our Elections' sponsored by Turning Point USA. Trump is scheduled to speak at 6 PM Eastern time. The Gateway Pundit's Jordan Conradson and Julian Conradson are attending the rally today in Phoenix. There is A MASSIVE CROWD lined up to see President Trump today in ... Continue reading

**GP** The Gateway Pundit

The rally featured all candidates for Arizona's next Secretary of State, Governor, and U.S. Senator.

US Senate candidate Blake Masters gave a great speech on his America First agenda.





## AZ Senate Candidate Blake Masters at Trump Rally: “We Need to Break Up Google and Facebook and We Need to Punish Twitter” (Video)

Arizona Senate Candidate Blake Masters spoke at the ‘Rally To Protect Our Elections’ sponsored by Turning Point USA. President Trump is scheduled to speak at 6 PM Eastern. Blake Masters, a 34-year-old chief operating officer at investment firm Thiel Capital and native Arizonan, launched his campaign for US Senator from Arizona on Monday. Masters spoke ... Continue reading

**GP** The Gateway Pundit

**Several local politicians were invited to speak at the rally today.**

**Arizona RINO State Senator Michelle Ugenti Rita also gave a speech but she was booed off of the stage as her words were muffled by the crowd, turned angry mob.**

In a contemptuous effort to save her speech, she yelled at her peasants  
“I’m going to win the primary!”

See the hilariously sad “speech” in the video below.



It wasn't planned either! This was an organic idea from the grassroots MAGA apparatus.

**Crowd:** BOO!

**Ugenti-Rita:** Pay attention...

**Crowd:** BOO!

**Ugenti-Rita:** We the people, We the people....

**Crowd:** BOO!

**Ugenti-Rita:** I'm running to be your next Secretary of State. I'm going to win the primary!

**She'll win without us?** Who has she struck a deal with?

After feeling the heat from the crowd of thousands, The Gateway Pundit's Jordan Conradson ran into her in another part of the arena.



He asked her why she killed Senator Kelly Townsend's chain of custody and election integrity bills.

**Ugenti-Rita:** Because it was bad

**Conradson:** Do you think that's why you got booed off stage?

**Ugenti-Rita left the building when asked questions by Conradson. Shortly after, she came back, and when he saw her again, she told officers on sight that Conradson was harassing her.**

The police did nothing because no laws were being violated.

Conradson compared this behavior to that of radical leftist Secretary of State Katie Hobbs, whose seat she is running for.

Roughly ten minutes later, Conradson was detained by event officials and escorted from the building for "harassing" Ugenti Rita.

After walking away, he called AZ State Senator Kelly Townsend, who encouraged him to come back peacefully and fight this.



While on the phone with the Senator and simply walking to meet her outside of the event, police grabbed Conradson and used handcuffs to put him in the back of a police car.

Conradson could hear police radios accusing him of being a member of the Proud Boys, a right-wing organization that the left has labeled as terrorists. Conradson has no affiliation with any political groups.

The police said he was facing a misdemeanor and a fine of up to \$900.

This tyrant violated Conradson's free press rights.

State Senator Kelly Townsend raised hell when this happened which is most likely what led to Conradson's release.

The officers dropped Conradson off at his vehicle and said that he is permanently banned from the venue.

**Kelly Townsend:** I think it's concerning that someone on our side has such disregard for the Constitution that she would seek to have a journalist arrested because he dared ask her a question about me that angered her. I am glad we were able to resolve the issue and correct what could have been a great miscarriage of justice.

**After this fiasco, Michelle Ugenti Rita went to Twitter to trash the audit**

I've been on the frontlines of the battle for election integrity for the last 10 years. I wrote the law banning ballot harvesting, cleaned-up our mail-in voter rolls, strengthened ID requirements just to name a few of my accomplishments, (1of5)



Something every candidate on that stage praised. I'll put my record of fighting for election integrity up against anyone. What I won't do is vote for "show" legislation that does nothing to strengthen election integrity and introduced for self serving reasons. (2of5)

There's too much at stake. Our election system is under constant assault by the left, and I won't support bills that fail to strengthen our election system. The same holds true for the audit. **I supported the audit, but I do not support the Trump audit any longer. (3of5)**

I wanted to review our election processes and see what, if anything, could be improved. Sadly, it's now become clear that the audit has been botched. The total lack of competence by [@FannKfann](#) over the last 5 months has deprived the voters of Arizona a comprehensive...(4of5)

Accounting of the 2020 election. That's inexcusable, but it shows what can happen when Republicans do not take election integrity deadly serious. (5of5)

**Michelle Ugenti-Rita (MUR)**

@MichelleUgenti · [Follow](#)



I've been on the frontlines of the battle for election integrity for the last 10 years. I wrote the law banning ballot harvesting, cleaned-up our mail-in voter rolls, strengthened ID requirements just to name a few of my accomplishments, (1of5)

6:47 PM · Jul 24, 2021



[Read the full conversation on Twitter](#)



149



Reply



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This is a lie. She has been nowhere near the frontlines of this battle. How would she know that the audit was botched? She hasn't even visited nor paid any attention whatsoever.

This was out of nowhere and was an obvious outlash at the MAGA movement for their scorn.

Michelle Ugenti Rita is out of the closet now.

It seems she has already started her party switch.

**Michelle Ugenti Rita clearly will not win the primary unless she has made a deal.**



3:43 / 3:43



## Submit a Correction



**Jordan Conradson**

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## Gateway Pundit

*Where Hope Finally Made a Comeback.*

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# EXHIBIT C

Order

1 **WO**

2  
3  
4  
5  
6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
8

9 TGP Communications LLC, *et al.*,

10 Plaintiffs,

11 v.

12 Jack Sellers, *et al.*,

13 Defendants.  
14

No. CV-22-01925-PHX-JJT

**ORDER**

15 At issue is the Corrected Emergency *Ex Parte* Motion for a Temporary Restraining  
16 Order (Doc. 7, “Mot.”)<sup>1</sup> filed by Plaintiffs TGP Communications, LLC, d/b/a The Gateway  
17 Pundit (“TGP”) and Jordan Conradson (“Mr. Conradson”), to which Defendants Jack  
18 Sellers, Thomas Galvin, Bill Gates, Clint Hickman, and Steve Gallardo in their official  
19 capacities as members of the Maricopa County Board of Supervisors; Stephen Richer in  
20 his official capacity as the Maricopa County Recorder; Rey Valenzuela and Scott Jarrett in  
21 their official capacities as Maricopa County Election Directors; and Megan Gilbertson and  
22 Marcus Milam in their official capacities as Maricopa County Communications Officers  
23 (hereinafter collectively referred to as “the County”) filed a Response (Doc. 17, “Resp.”).  
24 On November 17, 2022, the Court held a hearing at which the parties presented witness  
25 testimony and the Court heard argument on Plaintiffs’ Motion. For the reasons set forth  
26 below, the Court denies the motion.  
27

28 <sup>1</sup> Plaintiffs’ Motion corrected only the caption of the Emergency *Ex Parte* Motion for a  
Temporary Restraining Order (Doc. 2) they filed on November 12, 2022. (Mot. at 1 n.1)

1     **I.     BACKGROUND**

2           TGP is an online news and opinion publication. (Doc. 7-3, Decl. of James Hoft ¶ 1.)  
3     Founded in 2004, TGP has developed a large readership and now averages more than two-  
4     and-a-half million readers daily. (Decl. of James Hoft ¶ 1.) It describes itself as “a trusted  
5     news source for the stories and views that are largely untold or ignored by traditional news  
6     outlets.” (Compl. ¶ 26.) Mr. Conradson is a reporter with TGP who covers Arizona politics.  
7     (Transcript of November 17, 2022 Hearing (“Tr.”) 35.) Neither TGP nor Mr. Conradson  
8     are shy about their libertarian conservative political leanings. (*See* Mot. at 4.) Mr.  
9     Conradson testified that his favorite political party is the Republican Party “but I wear that  
10    on my sleeve.” (Tr. 38.) He noted that his readers understand his political views:  
11    “everybody who reads my work knows that I am very transparent about it.” (Tr. 38.)

12           On September 27, 2022, Mr. Conradson applied for credentials to attend press  
13    conferences given by Maricopa County officials and to access certain County facilities.  
14    (Doc. 7-2, Decl. of Jordan Conradson ¶ 3.) The County requires reporters to obtain such  
15    credentials—a “press pass”—in order to attend press conferences at, or otherwise enter,  
16    the Maricopa County Tabulation and Election Center (“MCTEC”) and the tenth floor of  
17    the County Administration building in Phoenix, Arizona. (Compl., Ex. 1; Resp. at 2–3.)

18           Roy Fields Moseley, the Communications Director for the County, explained that  
19    the County instituted the press-pass requirement in light of logistics and security concerns.  
20    (Tr. 60–64.) For example, the Board of Supervisors’ conference room on the tenth floor of  
21    the County Administration building can accommodate approximately 50 seats for  
22    reporters; after the extensive media interest in the 2020 election in Maricopa County, Mr.  
23    Moseley testified it was fair to say that they were anticipating there would be a lot more  
24    people wanting to attend press conferences. (Tr. 60–62.) He also testified that there were  
25    security issues at MCTEC after the 2020 election, including an incident in which

26           [s]everal people were not members of the media but perhaps might say they  
27    are, but they are not what we would call news reporters. They managed to  
28    follow legitimate news crews into the lobby of MCTEC. This was a security  
   concern. They had to be removed. There was a large crowd gathered outside

1 and we didn't want a repeat of that type of situation when we came up on  
2 2022.

3 (Tr. 63.) The County also has installed temporary and permanent fencing at MCTEC,  
4 where the Maricopa County Sheriff's Office maintains security. (Tr. 64.)

5 Reporters can apply for a press pass through a page on the County's website.  
6 (Compl. Exs. 1, 2.) The webpage states that "[t]he official press pass will allow members  
7 of the press to attend news conferences or enter the Elections Department's office to  
8 conduct interviews, take photos, and/or video." (Compl. Ex. 1.) The webpage states that  
9 the County evaluates "member of the press" based on the following criteria:

- 10 a. Is the person requesting press credentials employed by or affiliated  
11 with an organization whose principal business is news dissemination?
- 12 b. Does the parent news organization meet the following criteria?  
13
  - 14 i. It has published news continuously for at least 18 months, and;
  - 15 ii. It has a periodical publication component or an established  
16 television or radio presence.
- 17 c. Is the petitioner a paid or full-time correspondent, or if not, is acting  
18 on behalf of a student-run news organization affiliated with an  
19 Arizona high school, university, or college?
- 20 d. Is the petitioner or its employing organization engaged in any  
21 lobbying, paid advocacy, advertising, publicity, or promotion work  
22 for any individual, political party, corporation, or organization?
- 23 e. Is the petitioner a bona fide correspondent of repute in their  
24 profession, and do they and their employing organization exhibit the  
25 following characteristics?  
26
  - 27 i. Both avoid real or perceived conflicts of interest;
  - 28 ii. Both are free of associations that would compromise  
journalistic integrity or damage credibility;
  - iii. Both decline compensation, favors, special treatment,

1 secondary employment, or political involvement where doing  
2 so would compromise journalistic integrity; and

3 iv. Both resist pressures from advertisers, donors, or any other  
4 special interests to influence coverage.

5 This list is not exhaustive. The time, manner, and place limitations or needs  
6 of any one event may require consideration of additional factors.

7 (Compl. Ex. 1.) Mr. Moseley testified that a team of eight County employees reviews press  
8 pass-applications, which must receive two “yes” votes to be approved. (Tr. 64–65.)

9 On September 30, 2022, three days after Mr. Conradson applied for a press pass,  
10 the County notified him by email that his application was denied. (Def. Ex. 13.) The email  
11 stated that he was denied based on the following criteria: “You (a) do not avoid real or  
12 perceived conflicts of interest and (b) are not free of associations that would compromise  
13 journalistic integrity or damage credibility. Therefore, you are not a bona fide  
14 correspondent of repute in your profession.” (Def. Ex. 13.) When asked to summarize, in  
15 his words, why Mr. Conradson was denied a press pass, Mr. Moseley testified that it was  
16 “because he doesn’t avoid real or perceived conflicts of interest. If you look at his social  
17 media or his articles, they not only present a conflict. He doesn’t seek the truth and his  
18 articles have led to direct threats to Board of Elections officials and employees.” (Tr. 72.)  
19 To support the allegation about threats, the County points to *Reuters* articles stating that  
20 TGP was cited in highly threatening communications directed at County election  
21 employees. (Def. Exs. 17, 18.) The County further cites to a TGP article by Mr. Conradson  
22 (Def. Ex. 23) alleging that a County employee deleted files from the County’s Elections  
23 Management Server—allegations the County denies. (*See* Def. Ex. 18.) In the article, Mr.  
24 Conradson included the employee’s name and photograph. (Def. Ex. 23; Tr. 47.) According  
25 to one of the *Reuters* articles, readers left highly threatening comments about the employee  
26 in the comments section of the article. (Def. Ex. 18.) Mr. Conradson testified that he was  
27 “not aware that people got threats as a result of something I wrote.” (Tr. 47–48.)

28 The September 30, 2022 denial email stated that Mr. Conradson could appeal the

1 decision by sending a reply email “stating the reasons it should be reconsidered.” (Compl.  
2 Ex. 4.) It also stated that “any press conference about the 2022 Election will be streamed  
3 to a Maricopa County YouTube channel and you are welcome to view it.” (Compl. Ex. 4.)

4 On November 10, 2022, Mr. Conradson sent a reply email appealing the County’s  
5 decision. (Compl. Ex. 4.) In his email, Mr. Conradson stated that the denial violated his  
6 rights under the First Amendment and that “I will be coming in shortly to attend a press  
7 conference and receive my credentials.” (Compl. Ex. 4.)

8 On November 12, 2022, TGP and Mr. Conradson filed their Complaint in this Court  
9 raising one claim alleging a violation of the First Amendment under 42 U.S.C. § 1983. The  
10 same day, Plaintiffs filed the instant motion. The relief that Plaintiffs request includes the  
11 “[i]mmediate authorization of [Mr.] Conradson’s press credentials or in the absence of  
12 such credentials, access to newsgathering and press conferences equal to other press  
13 outlets”; a declaration that the denial of press credentials to Mr. Conradson was  
14 unconstitutional; and a declaration that the press-credential regulations are  
15 unconstitutional. (Compl. at 11–12.)

## 16 **II. LEGAL STANDARD**

17 Courts use the same standard for issuing a temporary restraining order as that for  
18 issuing a preliminary injunction. *Spears v. Ariz. Bd. of Regents*, 372 F. Supp. 3d 893, 926  
19 (D. Ariz. 2019). To obtain preliminary injunctive relief, plaintiffs must show: (1) they are  
20 “likely to succeed on the merits”; (2) they are “likely to suffer irreparable harm in the  
21 absence of preliminary relief”; (3) “the balance of equities tips in [their] favor”; and (4)  
22 “an injunction is in the public interest.” *Garcia v. Google, Inc.*, 786 F.3d 733, 740 (9th Cir.  
23 2015) (citing *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008)). Employing a  
24 sliding scale, the Ninth Circuit has stated that “‘serious questions going to the merits’ and  
25 a hardship balance that tips sharply toward the plaintiff can support issuance of an  
26 injunction, assuming the other two elements of the *Winter* test are also met.” *Drakes Bay*  
27 *Oyster Co. v. Jewell*, 747 F.3d 1073, 1085 (9th Cir. 2013), *cert. denied*, 747 F.3d 1073  
28 (2014) (quoting *All. for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1132 (9th Cir. 2011)).

1           The Ninth Circuit also has stated that mandatory injunctions—those ordering a  
 2 responsible party to take a specific action, as Plaintiffs seek here—are subject to a higher  
 3 standard than prohibitory injunctions that preserve the status quo. *Hernandez v. Sessions*,  
 4 872 F.3d 976, 998–99 (9th Cir. 2017). “Mandatory injunctions . . . are permissible when  
 5 ‘extreme or very serious damage will result’ that is not ‘capable of compensation in  
 6 damages,’ and the merits of the case are not ‘doubtful.’” *Id.* (quoting *Marlyn*  
 7 *Nutraceuticals, Inc. v. Mucos Pharma GmbH & Co.*, 571 F.3d 873, 879 (9th Cir. 2009)).

### 8       **III. ANALYSIS**

9           At the outset, the Court recognizes the importance of the constitutional rights at  
 10 issue. The First Amendment protects the freedom not only to publish news and opinion,  
 11 but also to engage in newsgathering. *Calif. First Amend. Coal. v. Calderon*, 150 F.3d 976,  
 12 981 (9th Cir. 1998). “The right of the press to gather news and information is protected by  
 13 the First Amendment because ‘without some protection for those seeking out the news,  
 14 freedom of the press could be eviscerated.’” *Id.* (quoting *Branzburg v. Hayes*, 408 U.S.  
 15 665, 681 (1978)). These rights are not absolute, *see, e.g., Neb. Press Ass’n v. Stuart*, 427  
 16 U.S. 539, 570 (1976), but the Court is, as it must be, solicitous of the First Amendment  
 17 protections of the free press.

#### 18       **A. Likelihood of Success on the Merits**

19           Plaintiffs put forth several arguments to support a facial challenge to the County’s  
 20 press-pass restrictions and an as-applied challenge to the denial of a press pass in this case.  
 21 Broadly, Plaintiffs argue that the County’s press-pass restrictions violate the First  
 22 Amendment because they are unconstitutionally vague; the procedure in which Mr.  
 23 Conradson was denied a press pass is void of due process; the denial of a press pass to Mr.  
 24 Conradson was impermissibly content- and viewpoint-based; and Plaintiffs were  
 25 selectively treated based on the content and viewpoint of their speech in contravention of  
 26 equal protection principles. (Mot. at 7–16.) The Court discusses these arguments in turn.

#### 27       **1. Unconstitutional Vagueness**

28           A statute or regulation is unconstitutionally vague if it “fails to provide people of



1 ordinary intelligence a reasonable opportunity to understand what conduct it prohibits” or  
2 “authorizes or even encourages arbitrary and discriminatory enforcement.” *Hill v.*  
3 *Colorado*, 530 U.S. 703, 733 (2000). Vagueness scrutiny is more stringent when First  
4 Amendment rights are implicated. *Butcher v. Knudsen*, 38 F.4th 1163, 1169 (9th Cir.  
5 2022). However, “perfect clarity and precise guidance have never been required even of  
6 regulations that restrict expressive activity.” *Ward v. Rock Against Racism*, 491 U.S. 781,  
7 794 (1989) (citing *Grayned v. City of Rockford*, 408 U.S. 104, 110 (1972)).

8 Plaintiffs argue that the two criteria under which the County denied a press pass to  
9 Mr. Conradson—that he neither “avoid[ed] real or perceived conflicts of interest” nor  
10 remained “free of associations that would compromise journalistic integrity or damage  
11 credibility”—are facially unconstitutional because they fail to make sufficiently clear  
12 “what conduct is prohibited.” (Mot. at 10–11.) The Court is unpersuaded at this juncture.

13 As an initial matter, the County has not “prohibited” reporters such as Mr.  
14 Conradson from the conduct described in the criteria, at least not in the sense of triggering  
15 any kind of civil or criminal penalties. Rather, the press-pass criteria are just that—a set of  
16 standards by which the County determines whether to grant reporters access to events and  
17 facilities that, although “public” in the sense that they are maintained for the benefit of the  
18 community, are not open to the general public as a matter of right. Moreover, the criteria  
19 that Plaintiffs challenge are only two among several characteristics of journalistic practice  
20 that the County considers. These criteria should be considered in the context of the press-  
21 pass scheme as a whole. *See Butcher*, 38 F.4th at 1176 (“We agree that in assessing a  
22 vagueness challenge, we must consider [the] law as a whole.”) (citations omitted).

23 Undercutting Plaintiffs’ argument is the fact that the County drew its press-pass  
24 criteria directly from the criteria used by the Office of the Governor of Wisconsin, which  
25 were in turn based on standards used by the Wisconsin Capitol Correspondent’s Board and  
26 in the United States Congress. (*See* Def. Ex. 2.) The Seventh Circuit upheld the  
27 constitutionality of these same criteria just last year. *John K. MacIver Inst. for Pub. Policy,*  
28 *Inc. v. Evers*, 994 F.3d 602, 606, 610–15 (7th Cir. 2021) (“*MacIver*”). Although the

1 Seventh Circuit did not consider a vagueness challenge in that case, the court of appeals  
 2 nonetheless provided detailed analysis of these criteria, indicating that their meaning is not  
 3 as elusive as Plaintiffs suggest. *See id.* at 610–15; *see also id.* at 610–11 (noting “[s]imilar  
 4 standards are also used by other governmental bodies such as the United States Congress”).

5 Regarding the first challenged criteria, Plaintiffs question whether it is sufficiently  
 6 clear “what an actual conflict of interest could be for a journalist.” (Mot. at 10–11.) They  
 7 further argue that “it is impossible to determine how a journalist may avoid being *perceived*  
 8 to have a conflict of interest.” (*Id.* (emphasis in original).) Conflicts of interest are familiar  
 9 to the legal system. *See, e.g.,* Ariz. R. Sup. Ct. 42, ER 1.7, 1.8. It is true that what constitutes  
 10 a conflict of interest is less obvious in the journalism context—for one thing, journalists do  
 11 not have clients with discernable interests in the way that lawyers do. However, the Society  
 12 of Professional Journalists’ (“SPJ”) Code of Ethics uses the term, indicating that the term  
 13 has broadly understood meaning among practicing journalists. (Def. Ex. 12 (stating that  
 14 “[j]ournalists should . . . [a]void conflicts of interest, real or perceived”).)<sup>2</sup> Plaintiffs’  
 15 expert, Professor Gregg Leslie, testified that conflicts of interest in the journalism context  
 16 would include, for example, reporting favorably on a publicly traded company while  
 17 owning stock in that company. (Tr. 15–16.)

18 The County urges and employs a broader interpretation of the term that includes a  
 19 reporter such as Mr. Conradson reporting on issues for which, and candidates for whom,  
 20 he also advocates. (*See* Tr. 70.) There is therefore some merit to Plaintiffs’ argument about  
 21 a lack of consensus as to the meaning of a conflict of interest in the journalism context.  
 22 (Tr. 93.) But there is reason to believe that the County’s interpretation is not an outlier. For  
 23 example, the Arizona Senate’s Media Rules state that applicants for media credentials  
 24 “must not be engaged in any lobbying or advocacy, advertising, publicity or promotion of  
 25 any individual, political party, group, corporation, organization or a federal, state or local

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26  
 27 <sup>2</sup> The Court references the SPJ’s Code of Ethics as evidence only of the use and meaning  
 28 of the terms in the County’s criteria within the journalism community. Plaintiffs’ expert,  
 Professor Gregg Leslie, noted that the Code was not intended to establish legally  
 enforceable rules of journalistic practice; the Code itself states that it “is not, nor can it be  
 under the First Amendment, legally enforceable.” (Def. Ex. 12.) The point is well taken.

government agency . . . .” Arizona State Senate, “Media Rules,”  
<https://www.azsenate.gov/alispdfs/SenateMediaRules.pdf>.

Turning to the second challenged criteria, Plaintiffs question what it would mean to be “free of associations that would compromise journalistic integrity or damage credibility.” (Mot. at 11.) As before, there is reason to believe these terms are more broadly understood than Plaintiffs suggest. These criteria find analogue in the SPJ’s Code of Ethics, which states that “[j]ournalists should . . . avoid political and other outside activities that may compromise integrity or impartiality, or may damage credibility.” (Def. Ex. 12.) Prof. Leslie agreed that part of being a good journalist is to “stay away from anything that makes you look biased” and “don’t do anything that is going to damage your credibility,” although he disputed that this was anything more than a “very broad statement” and “an aspirational goal.” (Tr. 16–17.) Further, it is not clear that these criteria “authorize[] or even encourage[] arbitrary and discriminatory enforcement,” *Hill*, 530 U.S. at 733, given that the County granted press passes to other publications considered to be conservative-leaning, such as Fox News and Newsmax. (Tr. 65–66.)

Thus, while Plaintiffs have validly questioned the precise contours of the County’s criteria, they have not established they are likely to succeed on their vagueness claim. Law demands clarity, of which the criteria are not a perfect model. But “‘perfect clarity is not required’”—even where First Amendment rights are implicated—and “‘we can never expect mathematical certainty from our language.’” *Human Life of Wash. v. Brumsickle*, 624 F.3d 990, 1019 (9th Cir. 2010) (first quoting *Cal. Teachers Ass’n v. State Bd. of Educ.*, 271 F.3d 1141, 1150 (9th Cir. 2001), and then quoting *Grayned*, 408 U.S. at 110).

## 2. Due Process

“Procedural due process imposes constraints on governmental decisions which deprive individuals of ‘liberty’ or ‘property’ interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment.” *Matthews v. Eldridge*, 424 U.S. 319, 332 (1976). Courts considering challenges brought by journalists denied access to government press conferences have persuasively held that, in view of the First Amendment

rights at stake, such access qualifies as a liberty interest that may not be denied without due process. *See Sherrill v. Knight*, 569 F.2d 124, 130–31 (D.C. Cir. 1977); *Alaska Landmine, LLC v. Dunleavy*, 514 F. Supp. 3d 1123, 1134 (D. Alaska), *appeal voluntarily dismissed*, No. 21-35137, 2021 WL 2103741 (9th Cir. Mar. 4, 2021); Doc. 22, Oral Ruling at 6–7, *CNN v. Trump*, No. CV-18-02610-TJK (D.D.C. Nov. 16, 2018); *Getty Images News Servs. Corp. v. Dep’t of Def.*, 193 F. Supp. 2d 112, 121 (D.D.C. Mar. 7, 2002).

Plaintiffs argue that the procedure by which the County denied a press pass to Mr. Conradson is void of due process. (Mot. at 11–12.) But they have not established that the County failed to afford Mr. Conradson the process he was due. They contend that the County has “no articulated standards” and fails to provide “opportunit[ies] to be heard” or “for meaningful appeal or review.” (Mot. at 11.) Not so. The County published the standards by which it considers press-pass applications, which are reviewed and voted on by a team of eight County employees. (Tr. 64–65.) The denial email stated that Mr. Conradson could appeal the decision by sending a reply email. (Def. Ex. 13.) Mr. Conradson did not take immediate advantage of this appeal process, waiting 41 days to send his reply. (Tr. 45.) He filed this lawsuit two days later. In short, it is incorrect to say, as Plaintiffs do, that “there was no process at all.” (Mot. at 12.) To the extent Defendants had not considered Mr. Conradson’s appeal by the time Plaintiffs filed the instant complaint, that was due entirely to Plaintiffs’ unilateral delay in appealing.

Plaintiffs rely on *Alaska Landmine, LLC v. Dunleavy* and *Sherrill v. Knight* to support their due process argument, but each case is distinguishable. In *Alaska Landmine*, the governor stopped providing press-conference invitations to the plaintiff, an online news publication, without ever formalizing a process for determining press access. 514 F. Supp. 3d at 1127–28. The district court held the plaintiff was likely to succeed on the merits of its due process claim “given the government’s failure to memorialize an explicit and meaningful standard governing its denial of press conference access.” *Id.* at 1134. Similarly, in *Sherrill*, the United States Secret Service denied White House press credentials to a journalist with *The Nation* magazine based on vague and unarticulated

1 security concerns without any “published or internal regulations stating the criteria upon  
 2 which a White House press pass security clearance is based.” 569 F.2d at 126–27. The D.C.  
 3 Circuit held that the “failure to articulate and publish an explicit and meaningful standard  
 4 governing denial of White House press passes for security reasons, and to afford procedural  
 5 protections to those denied passes, violates the first and fifth amendments.” *Id.* at 131.

6 Here, however, the County memorialized and published criteria for evaluating  
 7 press-pass applications; employed those criteria in a semi-formal review process; explained  
 8 the basis for the denial to Mr. Conradson; and provided an opportunity for reconsideration.  
 9 Plaintiffs have not shown a likelihood of success on a due process theory.

### 10 **3. Viewpoint Discrimination**

11 The First Amendment does not provide a right of free and unconditional access to  
 12 all government properties or events. *See Cornelius v. NAACP Legal Def. & Educ. Fund,*  
 13 *Inc.*, 473 U.S. 788, 799–800 (1985). “The existence of a right of access to public property  
 14 and the standard by which limitations placed upon such a right must be evaluated differ  
 15 depending on the character of the property at issue.” *Perry Educ. Ass’n v. Perry Local*  
 16 *Educators’ Ass’n*, 460 U.S. 37, 44 (1983). Moreover, the First Amendment rights of access  
 17 enjoyed by members of the press are no broader than those enjoyed by the general public.  
 18 *See Branzburg*, 408 U.S. at 684; *Pell v. Procunier*, 417 U.S. 817, 833–35 (1974); *see also*  
 19 *Cal. First Amen. Coal. v. Woodford*, 299 F.3d 868, 873 n.2 (9th Cir. 2002) (“As members  
 20 of the press, plaintiffs’ First Amendment right of access to governmental proceedings is  
 21 coextensive with the general public’s right of access.”) (citations omitted).

22 The Supreme Court generally considers challenges to restrictions on access to  
 23 government property or events under the public forum doctrine, which provides a  
 24 framework for evaluating such restrictions based on the type of government property or  
 25 event in question. *See Minn. Voters All. v. Mansky*, 138 S. Ct. 1876, 1885 (2018);  
 26 *Cornelius*, 473 U.S. at 799–800; *Perry*, 460 U.S. at 44. Courts have considered closely  
 27 analogous challenges to restrictions on access to government press conferences under the  
 28 public forum doctrine. *See MacIver*, 994 F.3d at 609–10; *Alaska Landmine*, 514 F. Supp.

3d at 1130–31. Both parties here agree that public forum analysis is relevant, although they dispute where that analysis ultimately leads. (Mot. at 13–14; Resp. at 10–11.)

The public forum doctrine generally places government-controlled spaces in three categories: (1) “traditional public forums”; (2) “designated public forums”; and (3) “nonpublic forums.” *Mansky*, 138 S. Ct. at 1885. Different levels of scrutiny apply depending on the forum. *Id.* In traditional public forums—such as parks, streets, and other spaces traditionally held open for public speech—“the government may impose reasonable time, place, and manner restrictions on private speech, but restrictions based on content must satisfy strict scrutiny, and those based on viewpoint are prohibited.” *Id.* (citing *Pleasant Grove City v. Summum*, 555 U.S. 460, 469 (2009)). The same standards apply to designated public forums—spaces “that are not traditionally open for public speech” but which the government has made available for “‘expressive use by the general public or by a particular class of speakers.’” *Koala v. Khosla*, 931 F.3d 887, 900 (9th Cir. 2019) (quoting *Seattle Mideast Awareness Campaign*, 781 F.3d 489, 496 (9th Cir. 2015)).

The Supreme Court has stated that “the government has much more flexibility” in the third category. *Mansky*, 138 S. Ct. at 1885. The cases variously label forums in this category as “limited public forums”—referring to those “limited to use by certain groups or dedicated solely to the discussion of certain subjects,” *Pleasant Grove*, 555 U.S. at 470—or “nonpublic forums”—referring to those that are “not by tradition or designation a forum for public communication.” *Perry*, 460 U.S. at 46. However, the Ninth Circuit has stated that “[t]he label doesn’t matter, because the same level of First Amendment scrutiny applies to all forums that aren’t traditional or designated public forums.” *Koala*, 921 F.3d at 900 n.6 (quoting *Seattle Mideast Awareness Campaign*, 781 F.3d at 496 n.2). Control over access to such forums “can be based on subject matter and speaker identity so long as the distinctions drawn are reasonable in light of the purpose served by the forum and are viewpoint neutral.” *Cornelius*, 473 U.S. at 806; accord *Pleasant Grove*, 555 U.S. at 470.

The forums to which Plaintiffs seek access in this case are nonpublic County facilities and press conferences given by County officials. The Court agrees with other



1 courts that have considered closely analogous challenges and concludes that these are  
2 nonpublic forums. *See MacIver*, 994 F.3d at 610; *Alaska Landmine*, 514 F. Supp. 3d at  
3 1121. Plaintiffs resist this conclusion, arguing the forums here are “limited” public forums,  
4 rather than “nonpublic” ones. (Mot. at 13; Tr. 88.) But the Ninth Circuit has stated that this  
5 is a distinction without a difference, at least in terms of the scrutiny that applies. *Koala*,  
6 921 F.3d at 900 n.6. No matter the label, the test is the same: The County’s press-pass  
7 restrictions must be reasonable in light of the purposes served by granting members of the  
8 press access to certain County facilities and to press conferences held in those facilities,  
9 and the restrictions must be viewpoint neutral. *See Cornelius*, 473 U.S. at 806; *Pleasant*  
10 *Grove*, 555 U.S. at 470.

11 The County argues that it has “a right to set criteria for allowing people to get into  
12 buildings and to attend press conferences.” (Tr. 81.) This must be true given the County’s  
13 well-founded safety concerns and limited space. Plaintiffs do not apparently disagree in  
14 principle, conceding that the County is not required simply to let in anyone who presents  
15 himself as a journalist. (*See* Tr. 90–93.) With respect to the specific criteria the County  
16 employs to further these interests, the Court agrees with the Seventh Circuit’s analysis in  
17 *MacIver* that the first three challenged criteria are “reasonably related to the viewpoint-  
18 neutral goal of increasing the journalistic impact of the [government’s] message by  
19 including media that focus primarily on news dissemination, have some longevity in the  
20 business, and possess the ability to craft newsworthy stories.” 994 F.3d at 610.

21 The County further argues that it has “the right to set up criteria for ethical  
22 reporting” (Tr. 83), which broadly summarizes the fourth and fifth challenged criteria. This  
23 a more controversial proposition, with which Plaintiffs and their expert, Prof. Leslie,  
24 strongly disagree. (*See, e.g.*, Tr. 21.) The Court agrees that this proposition is problematic  
25 insofar as it invites the government to play a role in policing the free press, whose  
26 constitutionally protected function is to hold the government to account. *See New York*  
27 *Times Co. v. United States*, 403 U.S. 713, 717 (1971) (Black, J., concurring).

28 Here, however, the County does not assert a right to establish criteria for ethical

1 reporting to justify policing the practice of journalism, at least not directly.<sup>3</sup> Rather, the  
 2 County asserts this right to justify evaluating reporters' practices to determine whether to  
 3 grant them access to press conferences and nonpublic County facilities and thereby further  
 4 the County's legitimate interest in disseminating accurate information to the public.  
 5 Cabined to this purpose, the Court agrees with the Seventh Circuit's analysis that the fourth  
 6 and fifth criteria "are reasonably related to the viewpoint-neutral goal of increasing  
 7 journalistic integrity by favoring media that avoid real or perceived conflicts of interest or  
 8 entanglement with special interest groups, or those that engage in advocacy or lobbying."  
 9 *MacIver*, 994 F.3d at 610. Whether better or more precise standards exist is not the point.  
 10 The County's press-pass restrictions "need only be *reasonable*; [they] need not be the most  
 11 reasonable or the only reasonable limitation." *Cornelius*, 473 U.S. at 808 (emphasis in  
 12 original). The Court is not persuaded that the County's restrictions are unreasonable.

13 Nor is the Court persuaded that the County's denial of a press pass to Mr. Conradson  
 14 was viewpoint-based. In short, Plaintiffs have not substantiated their claim that "[the  
 15 County] used [its] unfettered discretion to discriminate against the Gateway Pundit because  
 16 they do not want to be challenged by the Gateway Pundit's style of journalism." (Mot. at  
 17 15.) Plaintiffs suggest that the County's decision is related to Plaintiffs' reporting about  
 18 former Maricopa County Supervisor Steve Chucuri (Tr. 69), but this is conjectural. They  
 19 further suggest that the County discriminated against Plaintiffs because of a particular bias  
 20 against Plaintiffs (Tr. 78), pointing to Defendant Richer's retweet of a tweet hinting that  
 21 the County instituted the press-pass restrictions to keep Plaintiffs out of press conferences  
 22 (Doc. 25). Such behavior may be beneath the dignity of the office, but Plaintiffs have not  
 23 substantiated their claim that keeping them out was the animating reason behind the  
 24 restrictions. Finally, Plaintiffs suggest that the County discriminated against them based on  
 25 their political leanings. (Mot. at 4–5.) While the County did take note of Mr. Conradson's

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26  
 27 <sup>3</sup> For this reason, the Court is also not persuaded by Plaintiffs' argument that the press-pass  
 28 criteria are akin to licensing regimes that "condition the exercise of First Amendment  
 protected rights on 'obtaining a license or permit from a government official in that  
 official's boundless discretion.'" (Mot. at 13, quoting *Forsyth Cty. v. Nationalist  
 Movement*, 505 U.S. 123, 131 (1992).) The County is not requiring a license to gather news.



1 political leanings—which the Court acknowledges is a fraught consideration—it did so in  
 2 the context of evaluating whether he was free from associations that would compromise  
 3 his journalistic integrity. (Tr. 70.) Mr. Moseley denied that the County rejected Mr.  
 4 Conradson’s application based on his opinions and noted that the County has granted  
 5 passes to other conservative leaning publications. (Tr. 65–66, 72.)

6 In sum, while Plaintiffs have raised thorny questions about the County’s press-pass  
 7 restrictions, they have not shown they are likely to succeed in arguing that the restrictions  
 8 or their application in this case are unreasonable or constitute viewpoint discrimination.<sup>4</sup>

### 9 **B. Irreparable Injury**

10 Plaintiffs seeking a preliminary injunction must “demonstrate that irreparable injury  
 11 is *likely* in the absence of an injunction.” *Winter*, 555 U.S. at 22 (emphasis in original)  
 12 (citing *Los Angeles v. Lyons*, 461 U.S. 95, 103 (1983)). Plaintiffs note that the “loss of First  
 13 Amendment freedoms, for even minimal periods of time, unquestionably constitutes  
 14 irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976). But the Court has already  
 15 concluded that Plaintiffs have not shown any violations of their First Amendment rights at  
 16 this juncture.

17 Plaintiffs further argue that there is irreparable harm flowing from the County’s  
 18 actions here because of Mr. Conradson “not being able to report fully.” (Tr. 86.) The  
 19 County responds that Mr. Conradson is free to watch broadcasts of County press  
 20 conferences livestreamed on YouTube. (Resp. at 11–12.) *See Alaska Landmine*, 514 F.  
 21 Supp. 3d at 1135 (finding the harm of being excluded from press conferences *de minimis*  
 22 where the public can access livestreams of such conferences). Prof. Leslie testified that the  
 23 livestreams are “certainly better than nothing,” but noted that “[t]here’s a big difference  
 24 between being in the room and getting to observe multiple people at once versus what the  
 25 camera happens to focus on.” (Tr. 23.) Prof. Leslie’s point is well taken, but it is also true  
 26 that even if Mr. Conradson were permitted to attend press conferences, County officials

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27  
 28 <sup>4</sup> Because Plaintiffs’ equal protection argument is premised on the same analysis as their  
 First Amendment claim (*see* Mot. at 16), the Court concludes for the same reasons stated  
 herein that Plaintiffs have not shown a likelihood of success on an equal protection theory.

1 would be under no obligation to interact with him. *See Alaska Landmine*, 514 F. Supp. 3d  
 2 at 1135 (noting that “the Governor possesses the discretion to refrain from calling on  
 3 Plaintiffs or answering their questions.”).

4 The more fundamental problem with Plaintiffs’ irreparable injury argument is that  
 5 they waited 41 days between receiving the denial email on September 30, 2022 and  
 6 replying to that email to appeal the County’s decision on November 10, 2022. (Tr. 45.) The  
 7 County argues that this delay entirely undercuts Plaintiffs’ claims about the urgency of  
 8 their request for injunctive relief. (Tr. 82–83.) Plaintiffs respond that the circumstances  
 9 only became urgent on election day, when issues involving voting machines made the  
 10 County’s elections a national news story. (Tr. 84.) The Court is not persuaded. Plaintiffs’  
 11 own evidence demonstrates a focus on the County and its administration of elections that  
 12 existed long before election day, which would itself inevitably be an important news event.  
 13 Nor is the Court persuaded by Plaintiffs’ argument that there was “escalation of the  
 14 exclusion” by the County. (Tr. 94.) It was Mr. Conradson who initiated further contacts  
 15 with County officials that led to the alleged escalation. (Tr. 44–45, 51.)

### 16 **C. The Balance of Equities and the Public Interest**

17 “A preliminary injunction is an extraordinary remedy never awarded as of right.”  
 18 *Winter*, 555 U.S. at 24 (citing *Munaf v. Green*, 553 U.S. 674, 689–90 (2008)). “In each  
 19 case, courts ‘must balance the competing claims of injury and must consider the effect on  
 20 each party of the granting or withholding of the requested relief,’” paying particular  
 21 attention to the public consequences. *Id.* (quoting *Amoco Prod. Co. v. Village of Gambell*,  
 22 *Alaska*, 480 U.S. 531, 542 (1987)). Analyses of the third and fourth *Winter* factors—harm  
 23 to the opposing party and consideration of the public interest—merge where the  
 24 government is the party opposing a preliminary injunction. *Alaska Landmine*, 514 F. Supp.  
 25 3d at 1120 (citing *Nken v. Holder*, 556 U.S. 418, 435 (2009)).

26 There are burdens on both sides of the balance in this case. Although Plaintiffs’  
 27 claims to irreparable injury are not as strong as Plaintiffs contend, they are not trivial: Mr.  
 28 Conradson is not permitted to report from “the room where it happened,” as Prof. Leslie

1 testified in reference to the line from the musical *Hamilton*. (Tr. 28.) On the other side, the  
2 County would be significantly burdened by a requirement to open access to its facilities  
3 and press conferences, which would create logistics issues and might also exacerbate  
4 security concerns. As to Plaintiffs specifically, the County has produced evidence  
5 suggesting—though not definitively proving—that their articles have been associated with  
6 threats against County employees.

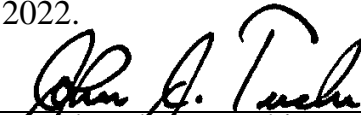
7 Finally, Plaintiffs argue that the County’s actions here are ultimately  
8 counterproductive because they create “a high probability of undermining confidence that  
9 the election is being tallied in a fair and above-board manner.” (Mot. at 17.) Whether or  
10 not this proposition is correct, the Court does not find it to be a matter appropriate for  
11 judicial determination. In view of the counterbalancing burdens in this case, the Court  
12 cannot conclude that the balance tips in Plaintiffs’ favor. *Winter*, 555 U.S. at 374.

#### 13 **IV. CONCLUSION**

14 Based on the foregoing, the Court finds that Plaintiffs have not carried their burden  
15 to show that they are entitled to preliminary injunctive relief at this juncture.

16 **IT IS THEREFORE ORDERED** denying Plaintiffs’ Emergency *Ex Parte* Motion  
17 for a Temporary Restraining Order (Doc. 7).

18 Dated this 23rd day of November, 2022.

19   
20 \_\_\_\_\_  
21 Honorable John J. Tuchi  
22 United States District Judge  
23  
24  
25  
26  
27  
28